

Volume 28
Number 7
December 15, 2010
Pages 227 - 284

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



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

THE OKLAHOMA REGISTER is an official publication of the State of Oklahoma. It is published semi-monthly on the first working day of the month and on the first working day following the 14th day of the month under the authority of 75 O.S., Sections 250 et seq. and OAC 655:10-15-1. The rules of the State of Oklahoma are codified and published in the *Oklahoma Administrative Code*.

The Oklahoma Register and the documents accepted for publication are **AVAILABLE FOR PUBLIC INSPECTION** at the Office of Administrative Rules pursuant to the Oklahoma Open Records Act. Copies of the *Register* are also available for public inspection at many County Clerks' offices in Oklahoma, the Jan Eric Cartwright Memorial Law Library in the State Capitol, and the following depository libraries:

Ada - East Central University, Linscheid Library

Alva - Northwestern Oklahoma State University,
J.W. Martin Library

Bartlesville - Bartlesville Public Library

Clinton - Clinton Public Library

Durant - Southeastern Oklahoma State University, H.G.
Bennett Memorial Library

Edmond - University of Central Oklahoma, Chambers Library

Enid - Public Library of Enid and Garfield County

Goodwell - Oklahoma Panhandle State University

Lawton - Lawton Public Library

McAlester - McAlester Public Library

Norman - University of Oklahoma, Bizzell Memorial
Library

Oklahoma City - Metropolitan Library System

Oklahoma City - Oklahoma Department of Libraries

Stillwater - Oklahoma State University, Edmon Low
Library

Tahlequah - Northeastern State University, John
Vaughan Library

Tulsa - Tulsa City-County Library System

Tulsa - University of Tulsa, McFarlin Library

Weatherford - Southwestern Oklahoma State
University, Al Harris Library

CITE MATERIAL PUBLISHED IN THE OKLAHOMA REGISTER by the volume and the beginning page number of the document in the *Register*. For example: 28 Ok Reg 256.

SUBSCRIPTION RATES for the *Register* are \$500.00 per year for the printed issues and \$300.00 per year for the CD-ROM issues, payable in advance. When available, individual printed issues may be purchased for \$20.00 plus the cost of postage, payable in advance. Make checks payable to "Secretary of State." Send subscription requests, change of address notices, and undelivered copies to: Secretary of State, Office of Administrative Rules, P.O. Box 53390, Oklahoma City, OK 73152-3390.

INFORMATION ABOUT THIS PUBLICATION may be obtained by contacting the Oklahoma Secretary of State, Office of Administrative Rules, 2401 North Lincoln Boulevard, Will Rogers Building, Room 220, P.O. Box 53390, Oklahoma City, OK 73152-3390, or by calling (405) 521-4911 or faxing (405) 522-3555. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

This publication is issued and printed by the Secretary of State as authorized by 75 O.S., Section 255. 59 copies have been prepared and distributed at a cost of \$231.90. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.

ISSN 0030-1728

Table of Contents

Agency/Action/Subject Index	iii
Rules Affected Index	iv
Agency Index (Title numbers assigned)	vii
Notices of Rulemaking Intent	
Environmental Quality, Department of (Title 252)	227, 229
Health Care Authority, Oklahoma (Title 317)	230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243
Medical Licensure and Supervision, State Board of (Title 435)	244, 245, 246
Mental Health and Substance Abuse Services, Department of (Title 450)	246, 247, 248
Motor Vehicle Commission, Oklahoma (Title 465)	248, 249
Public Employees Retirement System, Oklahoma (Title 590)	250, 251
Veterans Affairs, Oklahoma Department of (Title 770)	252
Submissions for Review	
Aeronautics Commission, Oklahoma (Title 25)	253
Commerce, Oklahoma Department of (Title 150)	253
Central Services, Department of (Title 580)	254
Secretary of State (Title 655)	254
Veterans Affairs, Oklahoma Department of (Title 770)	254
Emergency Adoptions	
Election Board, State (Title 230)	255, 256, 258
Health Care Authority, Oklahoma (Title 317)	259, 264, 266, 269, 273, 274
Human Services, Department of (Title 340)	274
Medical Licensure and Supervision, State Board of (Title 435)	278

Agency/Action/Subject Index

AERONAUTICS Commission, Oklahoma (Title 25)

Submissions for Review

Aviation Education Program (Chapter 25) 253
Aircraft Pilot and Passenger Protection Act
 (Chapter 30) 253

COMMERCE, Oklahoma Department of (Title 150)

Submissions for Review

Oklahoma Local Development and Enterprise Zone Incentive
 Leverage Act (Chapter 105) 253

ELECTION Board, State (Title 230)

Emergency Adoptions

The County Election Board (Chapter 10) 255
 Voter Registration (Chapter 15) 256
 Election Conduct (Chapter 35) 258

ENVIRONMENTAL Quality, Department of (Title 252)

Notices of Rulemaking Intent

Air Pollution Control (Chapter 100) 227
 Lead-Based Paint Management (Chapter 110) 229

HEALTH Care Authority, Oklahoma (Title 317)

Notices of Rulemaking Intent

Grievance Procedures and Process (Chapter 2) 230
 Purchasing (Chapter 10) 231
 Soonercare Choice (Chapter 25) 231
 Medical Providers-Fee for Service (Chapter 30) 232,
 233, 234, 235, 236, 237, 238, 239

Medical Assistance for Adults and Children-Eligibility
 (Chapter 35) 240, 241

~~Insure Oklahoma/Oklahoma Employer and Employee
 Partnership for Insurance Coverage~~ (Chapter 45) 241

Home and Community Based Services Waivers
 (Chapter 50) 242, 243

Emergency Adoptions

Grievance Procedures and Process (Chapter 2) 259
 Medical Providers-Fee for Service (Chapter 30) 264, 266
 Medical Assistance for Adults and Children-Eligibility
 (Chapter 35) 269, 273

~~Insure Oklahoma/Oklahoma Employer and Employee
 Partnership for Insurance Coverage~~ (Chapter 45) 274

HUMAN Services, Department of (Title 340)

Emergency Adoptions

Adult Protective Services (Chapter 5) 274

MEDICAL Licensure and Supervision, State Board of (Title 435)

Notices of Rulemaking Intent

Administration and Organization (Chapter 1) 244

MEDICAL Licensure and Supervision, State Board of – continued

Notices of Rulemaking Intent – continued

Physicians and Surgeons (Chapter 10) 244

Physician Assistants (Chapter 15) 245

Licensed Orthotists and Prosthetists and Registered
 Technicians and Assistants (Chapter 55) 245

Therapeutic Recreation (Chapter 70) 246

Emergency Adoptions

Therapeutic Recreation (Chapter 70) 278

MENTAL Health and Substance Abuse Services, Department of (Title 450)

Notices of Rulemaking Intent

Administration (Chapter 1) 246

Consumer Rights (Chapter 15) 247

Standards and Criteria for Certified Behavioral Health Case
 Managers (Chapter 50) 247

Standards and Criteria for Certified Peer Recovery Support
 Specialists (Chapter 53) 248

MOTOR Vehicle Commission, Oklahoma (Title 465)

Notices of Rulemaking Intent

License (Chapter 10) 248

Advertising (Chapter 15) 249

CENTRAL Services, Department of (Title 580)

Submissions for Review

Administrative Operations (Chapter 1) 254

State Inventory (Chapter 70) 254

PUBLIC Employees Retirement System, Oklahoma (Title 590)

Notices of Rulemaking Intent

Public Employees Retirement System (Chapter 10) 250

Uniform Retirement System for Justices and Judges
 (Chapter 15) 250

Deferred Compensation (Chapter 25) 251

Deferred Savings Incentive Plan (Chapter 35) 251

SECRETARY of State (Title 655)

Submissions for Review

Notary Public (Chapter 25) 254

VETERANS Affairs, Oklahoma Department of (Title 770)

Notices of Rulemaking Intent

Center Division Program (Chapter 10) 252

Submissions for Review

Administrative Operations (Chapter 1) 254

Center Division Program (Chapter 10) 254

Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
25:30-1-1.....	[NEW] (E) 77	252:220-5-8.....	[REVOKED] (E) 86
25:30-1-2.....	[NEW] (E) 77	252:220-5-9.....	[REVOKED] (E) 86
25:30-1-3.....	[NEW] (E) 78	252:220-7-1.....	[REVOKED] (E) 86
25:30-1-4.....	[NEW] (E) 78	252:220-7-2.....	[REVOKED] (E) 86
25:30-1-5.....	[NEW] (E) 79	252:220-7-3.....	[REVOKED] (E) 86
25:30-3-1.....	[NEW] (E) 79	252:220-9-1.....	[REVOKED] (E) 86
25:30-3-2.....	[NEW] (E) 79	252:220-9-2.....	[REVOKED] (E) 86
25:30-3-3.....	[NEW] (E) 79	252:220-11-1.....	[REVOKED] (E) 87
25:30-3-4.....	[NEW] (E) 79	252:220-11-2.....	[REVOKED] (E) 87
25:30-5-1.....	[NEW] (E) 80	252:220-11-3.....	[REVOKED] (E) 87
25:30-5-2.....	[NEW] (E) 80	252:220-11-4.....	[REVOKED] (E) 87
25:30-7-1.....	[NEW] (E) 80	252:220-11-5.....	[REVOKED] (E) 88
25:30-7-2.....	[NEW] (E) 80	252:220-11-6.....	[REVOKED] (E) 88
25:30-7-3.....	[NEW] (E) 80	252:220-11-7.....	[REVOKED] (E) 88
25:30-7-4.....	[NEW] (E) 81	252:220-11-8.....	[REVOKED] (E) 88
25:30-7-5.....	[NEW] (E) 81	252:220-11-9.....	[REVOKED] (E) 88
25:30-7-6.....	[NEW] (E) 81	252:220-11-10.....	[REVOKED] (E) 88
25:30-9-1.....	[NEW] (E) 81	252:221-1-1.....	[NEW] (E) 89
25:30-9-2.....	[NEW] (E) 81	252:221-1-2.....	[NEW] (E) 90
25:30-9-3.....	[NEW] (E) 81	252:221-1-3.....	[NEW] (E) 90
25:30-11-1.....	[NEW] (E) 81	252:221-1-4.....	[NEW] (E) 90
25:30, App. A.....	[NEW] (E) 83	252:221-1-5.....	[NEW] (E) 90
35:15-22-33.....	[AMENDED] (E) 119	252:221-1-6.....	[NEW] (E) 90
35:37-13-7.....	[NEW] (E) 120	252:221-1-7.....	[NEW] (E) 90
160:5-1-2.....	[AMENDED] (E) 63	252:221-1-8.....	[NEW] (E) 90
210:15-13-7.....	[NEW] (E) 213	252:221-3-1.....	[NEW] (E) 90
210:20-15-1.....	[NEW] (E) 214	252:221-3-2.....	[NEW] (E) 90
230:10-3-3.....	[AMENDED] (E) 255	252:221-3-3.....	[NEW] (E) 91
230:10-3-8.....	[AMENDED] (E) 256	252:221-3-4.....	[NEW] (E) 91
230:15-11-3.....	[AMENDED] (E) 257	252:221-3-5.....	[NEW] (E) 91
230:15-11-4.....	[AMENDED] (E) 257	252:221-3-6.....	[NEW] (E) 92
230:15-11-6.1.....	[AMENDED] (E) 257	252:221-3-7.....	[NEW] (E) 92
230:15-11-19.....	[AMENDED] (E) 257	252:221-3-8.....	[NEW] (E) 92
230:30-13-1.....	[AMENDED] (E) 121	252:221-3-9.....	[NEW] (E) 92
230:30-13-3.....	[AMENDED] (E) 121	252:221-3-10.....	[NEW] (E) 92
230:30-15-1.....	[AMENDED] (E) 121	252:221-3-11.....	[NEW] (E) 92
230:30-15-3.....	[AMENDED] (E) 121	252:221-3-12.....	[NEW] (E) 92
230:30-15-4.....	[AMENDED] (E) 122	252:221-5-1.....	[NEW] (E) 92
230:30-15-5.....	[AMENDED] (E) 122	252:221-5-2.....	[NEW] (E) 93
230:30-15-6.....	[AMENDED] (E) 122	252:221-7-1.....	[NEW] (E) 93
230:30-15-7.....	[AMENDED] (E) 122	252:221-7-2.....	[NEW] (E) 93
230:30-15-9.....	[AMENDED] (E) 122	252:221-7-3.....	[NEW] (E) 93
230:35-5-39.....	[AMENDED] (E) 258	252:221-7-4.....	[NEW] (E) 93
230:35-5-144.....	[AMENDED] (E) 259	252:221-7-5.....	[NEW] (E) 93
252:4-7-61.....	[REVOKED] (E) 84	252:221-7-6.....	[NEW] (E) 94
252:4-7-62.....	[REVOKED] (E) 84	252:221-7-7.....	[NEW] (E) 94
252:4-7-63.....	[REVOKED] (E) 84	252:221-7-8.....	[NEW] (E) 94
252:220-1-1.....	[REVOKED] (E) 85	252:221-7-9.....	[NEW] (E) 94
252:220-1-2.....	[REVOKED] (E) 85	252:221-7-10.....	[NEW] (E) 95
252:220-1-3.....	[REVOKED] (E) 85	252:221-7-11.....	[NEW] (E) 95
252:220-1-4.....	[REVOKED] (E) 85	252:221-7-12.....	[NEW] (E) 95
252:220-1-5.....	[REVOKED] (E) 85	252:221-7-13.....	[NEW] (E) 95
252:220-3-1.....	[REVOKED] (E) 85	317:2-1-2.....	[AMENDED] (E) 7
252:220-3-2.....	[REVOKED] (E) 85	317:2-1-2.....	[AMENDED] (E) 260
252:220-5-1.....	[REVOKED] (E) 85	317:2-1-5.....	[AMENDED] (E) 261
252:220-5-2.....	[AMENDED] (E) 86	317:2-1-6.....	[AMENDED] (E) 262
252:220-5-3.....	[REVOKED] (E) 86	317:2-1-7.....	[AMENDED] (E) 262
252:220-5-4.....	[REVOKED] (E) 86	317:2-1-13.....	[AMENDED] (E) 263
252:220-5-5.....	[REVOKED] (E) 86	317:25-7-7.....	[NEW] (E) 9
252:220-5-6.....	[REVOKED] (E) 86	317:30-3-5.....	[AMENDED] (E) 10
252:220-5-7.....	[REVOKED] (E) 86	317:30-3-28.....	[NEW] (E) 264

317:30-5-72.1.	[AMENDED] (E)	266	340:25-5-351.	[AMENDED] (E)	49
317:30-5-77.	[AMENDED] (E)	267	340:100-18-1.	[NEW] (E)	51
317:30-5-78.	[AMENDED] (E)	267	365:25-3-1.	[AMENDED] (E)	215
317:30-5-78.1.	[AMENDED] (E)	268	365:25-3-14.	[AMENDED] (E)	219
317:30-5-211.5.	[AMENDED] (E)	11	365:25-23-1.	[NEW] (E)	222
317:30-5-293.	[NEW] (E)	13	365:25-23-2.	[NEW] (E)	222
317:30-5-299.	[NEW] (E)	13	365:25-23-3.	[NEW] (E)	222
317:30-5-555.	[AMENDED] (E)	14	365:25-23-4.	[NEW] (E)	222
317:30-5-556.	[AMENDED] (E)	14	365:25-23-5.	[NEW] (E)	223
317:30-5-557.	[AMENDED] (E)	14	365:25-23-6.	[NEW] (E)	223
317:30-5-558.	[AMENDED] (E)	15	365:25-23-7.	[NEW] (E)	223
317:30-5-559.	[AMENDED] (E)	15	365:25-23-8.	[NEW] (E)	223
317:30-5-560.	[AMENDED] (E)	15	365:25-23-9.	[NEW] (E)	223
317:30-5-560.1.	[AMENDED] (E)	15	435:70-1-1.	[NEW] (E)	278
317:30-5-660.1.	[AMENDED] (E)	123	435:70-1-2.	[NEW] (E)	278
317:30-5-660.3.	[AMENDED] (E)	123	435:70-1-3.	[NEW] (E)	278
317:30-5-660.4.	[AMENDED] (E)	124	435:70-1-4.	[NEW] (E)	279
317:30-5-661.1.	[AMENDED] (E)	124	435:70-1-5.	[NEW] (E)	280
317:30-5-661.5.	[AMENDED] (E)	124	435:70-3-1.	[NEW] (E)	280
317:30-5-661.7.	[AMENDED] (E)	124	435:70-3-2.	[NEW] (E)	280
317:30-5-664.5.	[AMENDED] (E)	125	435:70-3-3.	[NEW] (E)	280
317:30-5-664.7.	[AMENDED] (E)	125	435:70-3-4.	[NEW] (E)	281
317:30-5-664.10.	[AMENDED] (E)	126	435:70-3-5.	[NEW] (E)	281
317:30-5-664.11.	[REVOKED] (E)	126	435:70-3-6.	[NEW] (E)	281
317:30-5-680.	[NEW] (E)	13	435:70-5-1.	[NEW] (E)	281
317:30-5-1091.	[AMENDED] (E)	16	435:70-5-2.	[NEW] (E)	281
317:30-5-1098.	[AMENDED] (E)	17	435:70-5-3.	[NEW] (E)	281
317:35-5-25.	[AMENDED] (E)	269	435:70-5-4.	[NEW] (E)	282
317:35-23-2.	[AMENDED] (E)	273	435:70-5-5.	[NEW] (E)	282
317:45-3-3.	[NEW] (E)	274	435:70-5-6.	[NEW] (E)	282
317:45-5-3.	[NEW] (E)	274	435:70-7-1.	[NEW] (E)	283
317:45-13-1.	[NEW] (E)	127	435:70-7-2.	[NEW] (E)	283
317:50-3-1.	[NEW] (E)	127	435:70-7-3.	[NEW] (E)	283
317:50-3-2.	[NEW] (E)	127	530:10-13-3.	[AMENDED] (E)	169
317:50-3-3.	[NEW] (E)	129	530:10-13-12.	[AMENDED] (E)	169
317:50-3-4.	[NEW] (E)	131	530:10-13-32.	[AMENDED] (E)	169
317:50-3-5.	[NEW] (E)	131	590:10-3-13.	[AMENDED] (E)	96
317:50-3-6.	[NEW] (E)	132	590:10-7-18.	[AMENDED] (E)	96
317:50-3-7.	[NEW] (E)	137	590:10-9-2.	[AMENDED] (E)	97
317:50-3-8.	[NEW] (E)	137	590:10-17-10.	[NEW] (E)	97
317:50-3-9.	[NEW] (E)	137	590:10-21-1.	[NEW] (E)	97
317:50-3-10.	[NEW] (E)	138	590:10-21-2.	[NEW] (E)	98
317:50-3-11.	[NEW] (E)	138	590:10-21-3.	[NEW] (E)	98
317:50-3-12.	[NEW] (E)	138	590:10-21-4.	[NEW] (E)	98
317:50-3-13.	[NEW] (E)	140	590:10-21-5.	[NEW] (E)	98
317:50-3-14.	[NEW] (E)	140	590:10-21-6.	[NEW] (E)	98
317:50-3-15.	[NEW] (E)	147	590:10-21-7.	[NEW] (E)	99
317:50-3-16.	[NEW] (E)	148	590:10-21-8.	[NEW] (E)	99
317:50-5-1.	[NEW] (E)	148	590:10-21-9.	[NEW] (E)	100
317:50-5-2.	[NEW] (E)	148	590:10-21-10.	[NEW] (E)	100
317:50-5-3.	[NEW] (E)	150	590:10-21-11.	[NEW] (E)	100
317:50-5-4.	[NEW] (E)	151	590:10-21-12.	[NEW] (E)	100
317:50-5-5.	[NEW] (E)	152	590:10-21-13.	[NEW] (E)	100
317:50-5-6.	[NEW] (E)	152	590:15-5-1.	[NEW] (E)	101
317:50-5-7.	[NEW] (E)	158	590:15-5-2.	[NEW] (E)	101
317:50-5-8.	[NEW] (E)	158	590:15-5-3.	[NEW] (E)	102
317:50-5-9.	[NEW] (E)	158	590:15-5-4.	[NEW] (E)	102
317:50-5-10.	[NEW] (E)	159	590:15-5-5.	[NEW] (E)	102
317:50-5-11.	[NEW] (E)	159	590:15-5-6.	[NEW] (E)	102
317:50-5-12.	[NEW] (E)	159	590:15-5-7.	[NEW] (E)	102
317:50-5-13.	[NEW] (E)	160	590:15-5-8.	[NEW] (E)	103
317:50-5-14.	[NEW] (E)	160	590:15-5-9.	[NEW] (E)	103
317:50-5-15.	[NEW] (E)	168	590:15-5-10.	[NEW] (E)	103
317:50-5-16.	[NEW] (E)	168	590:15-5-11.	[NEW] (E)	103
340:5-1-5.	[AMENDED] (E)	275	590:15-5-12.	[NEW] (E)	103
340:5-1-6.	[AMENDED] (E)	275	590:15-5-13.	[NEW] (E)	104
340:5-5-8.	[AMENDED] (E)	278	710:50-15-74.	[AMENDED] (E)	18

Rules Affected Index – *continued*

710:50-15-76. [AMENDED] (E)	20	710:50-15-103. [AMENDED] (E)	29
710:50-15-81. [AMENDED] (E)	21	710:50-15-104. [AMENDED] (E)	30
710:50-15-84. [AMENDED] (E)	21	710:50-15-105. [AMENDED] (E)	31
710:50-15-85. [AMENDED] (E)	21	710:50-15-106. [AMENDED] (E)	31
710:50-15-86. [AMENDED] (E)	22	710:50-15-107. [AMENDED] (E)	32
710:50-15-87. [AMENDED] (E)	24	710:50-15-108. [AMENDED] (E)	33
710:50-15-91. [AMENDED] (E)	25	710:50-15-109. [AMENDED] (E)	34
710:50-15-92. [AMENDED] (E)	25	710:50-15-110. [NEW] (E)	35
710:50-15-95. [AMENDED] (E)	26	710:65-21-8. [NEW] (E)	104
710:50-15-97. [AMENDED] (E)	26	775:10-11-1. [NEW] (E)	37
710:50-15-98. [AMENDED] (E)	27	775:10-12-1. [NEW] (E)	37
710:50-15-99. [AMENDED] (E)	28	775:10-12-2. [NEW] (E)	54
710:50-15-101. [AMENDED] (E)	28	775:10-12-3. [NEW] (E)	54

Agency/Title Index

[Assigned as of 12-15-10]

Agency	Title	Agency	Title
Oklahoma ABSTRACTORS Board	5	EDGE Fund Policy Board	208
Oklahoma ACCOUNTANCY Board	10	State Department of EDUCATION	210
State ACCREDITING Agency	15	EDUCATION Oversight Board	215
AD Valorem Task Force (<i>abolished 7-1-93</i>)	20	Oklahoma EDUCATIONAL Television Authority	220
Oklahoma AERONAUTICS Commission	25	[RESERVED]	225
Board of Regents for the Oklahoma AGRICULTURAL and Mechanical Colleges (<i>exempted 11-1-98</i>)	30	State ELECTION Board	230
Oklahoma Department of AGRICULTURE , Food, and Forestry	35	Oklahoma FUNERAL Board (<i>Formerly</i> : Oklahoma State Board of EMBALMERS and Funeral Directors)	235
Oklahoma Board of Licensed ALCOHOL and Drug Counselors	38	Oklahoma Department of EMERGENCY Management (<i>Formerly</i> : Department of CIVIL Emergency Management) - <i>See</i> Title 145	
Board of Tests for ALCOHOL and Drug Influence	40	Oklahoma EMPLOYMENT Security Commission	240
ALCOHOLIC Beverage Laws Enforcement Commission	45	Oklahoma ENERGY Resources Board	243
ANATOMICAL Board of the State of Oklahoma	50	State Board of Licensure for Professional ENGINEERS and Land Surveyors (<i>Formerly</i> : State Board of Registration for Professional ENGINEERS and Land Surveyors)	245
Board of Governors of the Licensed ARCHITECTS , Landscape Architects and Registered Interior Designers of Oklahoma (<i>Formerly</i> : Board of Governors of the Licensed ARCHITECTS and Landscape Architects of Oklahoma; and Board of Governors of the Licensed ARCHITECTS , Landscape Architects and Interior Designers of Oklahoma)	55	Board of Trustees for the ENID Higher Education Program (<i>exempted 11-1-98</i>)	250
ARCHIVES and Records Commission	60	Department of ENVIRONMENTAL Quality	252
Board of Trustees for the ARDMORE Higher Education Program (<i>exempted 11-1-98</i>)	65	State Board of EQUALIZATION	255
Oklahoma ARTS Council	70	ETHICS Commission (<i>Title revoked</i>)	257
Oklahoma State ATHLETIC Commission (<i>Formerly</i> : Oklahoma Professional BOXING Commission) - <i>See</i> Title 92		ETHICS Commission	258
ATTORNEY General	75	Office of State FINANCE	260
State AUDITOR and Inspector	80	State FIRE Marshal Commission	265
State BANKING Department	85	Oklahoma Council on FIREFIGHTER Training	268
Oklahoma State Employees BENEFITS Council	87	Oklahoma FIREFIGHTERS Pension and Retirement System	270
Council of BOND Oversight	90	[RESERVED]	275
Oklahoma State ATHLETIC Commission (<i>Formerly</i> : Oklahoma Professional BOXING Commission)	92	FORENSIC Review Board	277
State BURIAL Board (<i>abolished 7-1-92</i>)	95	State Board of Registration for FORESTERS	280
[RESERVED]	100	FOSTER Care Review Advisory Board	285
Oklahoma CAPITAL Investment Board	105	Oklahoma FUNERAL Board (<i>Formerly</i> : Oklahoma State Board of Embalmers and Funeral Directors) - <i>See</i> Title 235	
Oklahoma CAPITOL Improvement Authority	110	Oklahoma FUTURES	290
State CAPITOL Preservation Commission	115	GOVERNOR (<i>See also</i> Title 1, Executive Orders)	295
CAPITOL-MEDICAL Center Improvement and Zoning Commission	120	GRAND River Dam Authority	300
Oklahoma Department of CAREER and Technology Education (<i>Formerly</i> : Oklahoma Department of VOCATIONAL and Technical Education) - <i>See</i> Title 780		Group Self-Insurance Association GUARANTY Fund Board	302
Board of Regents of CARL Albert State College (<i>exempted</i> <i>11-1-98</i>)	125	Individual Self-Insured GUARANTY Fund Board	303
Department of CENTRAL Services (<i>Formerly</i> : Office of PUBLIC Affairs) - <i>See</i> Title 580		STATE Use Committee (<i>Formerly</i> : Committee on Purchases of Products and Services of the Severely HANDICAPPED)	304
CEREBRAL Palsy Commission	130	Office of DISABILITY Concerns (<i>Formerly</i> : Office of HANDICAPPED Concerns)	305
Commission on CHILDREN and Youth	135	Oklahoma State Department of HEALTH	310
Board of CHIROPRACTIC Examiners	140	Oklahoma Basic HEALTH Benefits Board (<i>abolished 11-1-97</i>)	315
Oklahoma Department of EMERGENCY Management (<i>Formerly</i> : Department of CIVIL Emergency Management)	145	Oklahoma HEALTH Care Authority	317
Oklahoma Department of COMMERCE	150	HIGHWAY Construction Materials Technician Certification Board	318
COMMUNITY Hospitals Authority	152	Oklahoma HISTORICAL Society	320
COMPSOURCE Oklahoma (<i>Formerly</i> : State INSURANCE Fund) - <i>See</i> Title 370		Oklahoma HORSE Racing Commission	325
Oklahoma CONSERVATION Commission	155	Oklahoma HOUSING Finance Agency	330
CONSTRUCTION Industries Board	158	Oklahoma HUMAN Rights Commission	335
Department of CONSUMER Credit	160	Department of HUMAN Services	340
CORPORATION Commission	165	Committee for INCENTIVE Awards for State Employees	345
Department of CORRECTIONS	170	Oklahoma INDIAN Affairs Commission	350
State Board of COSMETOLOGY	175	Oklahoma INDIGENT Defense System	352
Oklahoma State CREDIT Union Board	180	Oklahoma INDUSTRIAL Finance Authority	355
CRIME Victims Compensation Board	185	INJURY Review Board	357
Joint CRIMINAL Justice System Task Force Committee	190	Oklahoma State and Education Employees Group INSURANCE Board	360
Board of DENTISTRY	195	INSURANCE Department	365
Oklahoma DEVELOPMENT Finance Authority	200	COMPSOURCE Oklahoma (<i>Formerly</i> : State INSURANCE Fund)	370
Office of DISABILITY Concerns (<i>Formerly</i> : Office of HANDICAPPED Concerns) - <i>See</i> Title 305		Oklahoma State Bureau of INVESTIGATION	375
Board of Regents of EASTERN Oklahoma State College (<i>exempted</i> <i>11-1-98</i>)	205	Council on JUDICIAL Complaints	376
		Office of JUVENILE Affairs	377
		Department of LABOR	380
		Department of the Commissioners of the LAND Office	385
		Council on LAW Enforcement Education and Training	390
		Oklahoma LAW Enforcement Retirement System	395
		Board on LEGISLATIVE Compensation	400

Agency/Title Index – continued

Agency	Title	Agency	Title
Oklahoma Department of LIBRARIES	405	Oklahoma SAVINGS and Loan Board (<i>abolished 7-1-93</i>)	625
LIEUTENANT Governor	410	SCENIC Rivers Commission	630
Oklahoma LINKED Deposit Review Board	415	Oklahoma Commission on SCHOOL and County Funds	
Oklahoma LIQUEFIED Petroleum Gas Board	420	Management	635
Oklahoma LIQUEFIED Petroleum Gas Research, Marketing and Safety		Advisory Task Force on the Sale of SCHOOL Lands (<i>functions</i>	
Commission	422	<i>concluded 2-92</i>)	640
LITERACY Initiatives Commission	425	The Oklahoma School of SCIENCE and Mathematics	645
LONG-RANGE Capital Planning Commission	428	Oklahoma Center for the Advancement of SCIENCE and	
Oklahoma State Board of Examiners for LONG-TERM Care		Technology	650
Administrators (<i>Formerly</i> : Oklahoma State Board of Examiners		SECRETARY of State	655
for NURSING Home Administrators) - <i>See</i> Title 490		Department of SECURITIES	660
LOTTERY Commission, Oklahoma	429	Board of Regents of SEMINOLE State College (<i>exempted</i>	
Board of Trustees for the MCCURTAIN County Higher Education		<i>11-1-98</i>)	665
Program (<i>exempted 11-1-98</i>)	430	SHEEP and Wool Commission	670
Commission on MARGINALLY Producing Oil and Gas Wells	432	State Board of Licensed SOCIAL Workers	675
State Board of MEDICAL Licensure and Supervision	435	SOUTHERN Growth Policies Board	680
MEDICAL Technology and Research Authority of Oklahoma	440	Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
Board of MEDICOLEGAL Investigations	445	Board of Examiners for SPEECH-LANGUAGE Pathology and	
Department of MENTAL Health and Substance Abuse Services	450	Audiology (<i>Formerly</i> : Board of Examiners for SPEECH	
MERIT Protection Commission	455	Pathology and Audiology)	690
MILITARY Planning Commission, Oklahoma Strategic	457	STATE Employee Charitable Contributions, Oversight	
Department of MINES	460	Committee for (<i>Formerly</i> : STATE Agency	
Oklahoma MOTOR Vehicle Commission	465	Review Committee)	695
Board of Regents of MURRAY State College (<i>exempted 11-1-98</i>)	470	STATE Use Committee (<i>Formerly</i> : Committee on Purchases of Products	
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs		and Services of the Severely HANDICAPPED) – <i>See</i> Title 304	
Control	475	Oklahoma STUDENT Loan Authority	700
Board of Regents of NORTHERN Oklahoma College (<i>exempted</i>		TASK Force 2000	705
<i>11-1-98</i>)	480	Oklahoma TAX Commission	710
Oklahoma Board of NURSING	485	Oklahoma Commission for TEACHER Preparation	712
Oklahoma State Board of Examiners for LONG-TERM Care		TEACHERS' Retirement System	715
Administrators (<i>Formerly</i> : Oklahoma State Board of Examiners		State TEXTBOOK Committee	720
for NURSING Home Administrators)	490	TOBACCO Settlement Endowment Trust Fund	723
Board of Regents of OKLAHOMA City Community College (<i>exempted</i>		Oklahoma TOURISM and Recreation Department	725
<i>11-1-98</i>)	495	Department of TRANSPORTATION	730
Board of Regents of OKLAHOMA Colleges (<i>exempted 11-1-98</i>)	500	Oklahoma TRANSPORTATION Authority (<i>Name changed to</i>	
Board of Examiners in OPTOMETRY	505	Oklahoma TURNPIKE Authority <i>11-1-05</i>) - <i>See</i> Title 731	
State Board of OSTEOPATHIC Examiners	510	Oklahoma TURNPIKE Authority (<i>Formerly</i> : Oklahoma	
PARDON and Parole Board	515	TRANSPORTATION Authority AND Oklahoma TURNPIKE	
Oklahoma PEANUT Commission	520	Authority) - <i>See</i> also Title 745	731
Oklahoma State PENSION Commission	525	State TREASURER	735
State Board of Examiners of PERFUSIONISTS	527	Board of Regents of TULSA Community College (<i>exempted</i>	
Board of Commercial PET Breeders	532	<i>11-1-98</i>)	740
Office of PERSONNEL Management	530	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma</i>	
Oklahoma State Board of PHARMACY	535	TRANSPORATION Authority <i>11-1-99</i> - <i>no rules enacted in this</i>	
PHYSICIAN Manpower Training Commission	540	<i>Title - See</i> Title 731)	745
Board of PODIATRIC Medical Examiners	545	Oklahoma UNIFORM Building Code Commission	748
Oklahoma POLICE Pension and Retirement System	550	Board of Trustees for the UNIVERSITY Center at Tulsa (<i>exempted</i>	
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	<i>11-1-98</i>)	750
POLYGRAPH Examiners Board	560	UNIVERSITY Hospitals Authority	752
Oklahoma Board of PRIVATE Vocational Schools	565	UNIVERSITY Hospitals Trust	753
State Board for PROPERTY and Casualty Rates		Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted</i>	
(<i>abolished 7-1-06; see also Title 365</i>)	570	<i>11-1-98</i>)	755
State Board of Examiners of PSYCHOLOGISTS	575	Board of Regents of the UNIVERSITY of Science and Arts	
Department of CENTRAL Services (<i>Formerly</i> : Office of PUBLIC		of Oklahoma (<i>exempted 11-1-98</i>)	760
Affairs)	580	Oklahoma USED Motor Vehicle and Parts Commission	765
PUBLIC Employees Relations Board	585	Oklahoma Department of VETERANS Affairs	770
Oklahoma PUBLIC Employees Retirement System	590	Board of VETERINARY Medical Examiners	775
Department of PUBLIC Safety	595	Oklahoma Department of CAREER and Technology Education	
REAL Estate Appraiser Board	600	(<i>Formerly</i> : Oklahoma Department of VOCATIONAL and	
Oklahoma REAL Estate Commission	605	Technical Education)	780
Board of Regents of REDLANDS Community College (<i>exempted</i>		Oklahoma WATER Resources Board	785
<i>11-1-98</i>)	607	Board of Regents of WESTERN Oklahoma State College (<i>exempted</i>	
State REGENTS for Higher Education	610	<i>11-1-98</i>)	790
State Department of REHABILITATION Services	612	Oklahoma WHEAT Commission	795
Board of Regents of ROGERS State College (<i>exempted 11-1-98</i>)	615	Department of WILDLIFE Conservation	800
Board of Regents of ROSE State College (<i>exempted 11-1-98</i>)	620	WILL Rogers and J.M. Davis Memorials Commission	805

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

[OAR Docket #10-1316]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

252:100-1-3. Definitions [AMENDED]

252:100-1-4. Units, abbreviations and acronyms [AMENDED]

Subchapter 2. Incorporation By Reference

252:100-2.1. Purpose [AMENDED]

252:100-2-3. ~~Reference to Title 40, Code of Federal Regulations (40 CFR) Incorporation by reference~~ [AMENDED]

Subchapter 3. Air Quality Standards and Increments

252:100-3-4. Significant deterioration increments [AMENDED]

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.3. Annual operating fees for toxics emissions [NEW]

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities [NEW]

Part 2. Permit Application Fees

252:100-7-3. Permit application fees [AMENDED]

Subchapter 8. Permits for Part 70 Sources

Part 3. Permit Application Fees

252:100-8-1.7. Permit application fees [AMENDED]

Part 5. Permits for Part 70 Sources

252:100-8-2. Definitions [AMENDED]

Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas

252:100-8-31. Definitions [AMENDED]

252:100-8-33. Exemptions [AMENDED]

252:100-8-35. Air quality impact evaluation [AMENDED]

Part 9. Major Sources Affecting Nonattainment Areas

252:100-8-50.1. Incorporation by reference [AMENDED]

252:100-8-51. Definitions [AMENDED]

252:100-8-51.1. Emissions reductions and offsets [AMENDED]

252:100-8-52. Applicability determination for sources in attainment areas causing or contributing to NAAQS violation [AMENDED]

Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [REVOKED]

Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix Q. Incorporation By Reference [REVOKED]

Appendix Q. Incorporation By Reference [NEW]

SUMMARY:

The Department is proposing to modify Subchapters 7 and 8 to ensure that State rules affected by recent changes to the U.S. Environmental Protection Agency's (EPA's) policies and programs for greenhouse gas (GHG) emissions are not perceived to be more stringent than the corresponding federal requirements. GHG, an aggregate group of six gases (carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride), will become subject to regulation as an air pollutant on January 2, 2011, when the EPA and the U.S. Department of Transportation joint light-duty vehicle GHG emission standards become effective. If GHG emission sources are required to obtain Prevention of Significant Deterioration (PSD) and Part 70 permits at the current applicability thresholds of 100 or 250 tons per year, the number of PSD and Part 70 permits would increase to the point that the Department would be unable to deal with them in a timely fashion. These requirements could be interpreted to include agricultural, commercial, and residential sources that have not previously been subject to air quality permitting. In order to avoid this, EPA promulgated its GHG Tailoring Rule in the *Federal Register* on June 3, 2010 (75 FR 31514). EPA's rule defines the term "subject to regulation" to establish thresholds of 100,000 tons per year CO₂ equivalent (CO₂e) for PSD and Part 70 applicability and a significant level of 75,000 tons per year CO₂e for PSD. Although the Department accepts EPA's mechanism for implementing the GHG tailoring rule's higher GHG thresholds by accepting EPA's definition of "subject to regulation," the federal modification to the applicability of these permitting thresholds is not directly reflected in the Department's current rules. Consequently, the general public and many smaller sources not familiar with the interdependence of State Clean Air Act requirements and federal Clean Air Act requirements may interpret the lower PSD and Part 70 applicability thresholds set forth in

Notices of Rulemaking Intent

the Department's rules to apply to sources emitting lower levels of GHG. The proposed modification to Parts 5 and 7 of Subchapter 8 of the Air Pollution Control Rules clarifies the change in pollutants subject to regulation and the applicability thresholds for GHG based on the GHG Tailoring Rule. This should prevent smaller sources of GHG from expending resources in preparing unnecessary permit applications for GHG emissions. This will also prevent the State rule from being perceived to be more stringent than the corresponding federal rule.

The Department is also proposing to add a new section to Subchapter 7 to clarify that GHG is excluded from the minor facility permitting program except if necessary to set enforceable limits to keep GHG emission levels at a facility below the applicability threshold levels for the PSD construction permit program and/or the Part 70 operating permit program. At this time, EPA does not have a GHG permitting program for minor facilities.

In conjunction with the proposed changes to Subchapters 7 and 8 to address the federal Greenhouse Gas Tailoring Rule, the Department is proposing to modify Subchapter 1, General Provisions, by the addition of the definition of "greenhouse gas" or "GHG" to OAC 252:100-1-3. Also, modifications are proposed to OAC 252:100-1-4, relating to units, abbreviations, and acronyms, to correct scribes' errors that inadvertently resulted in removal of superscripts and subscripts from the terms in subsection (a) of that Section.

The Department is proposing modifications to Parts 7 and 9 of Subchapter 8 to implement the New Source Review program (PSD and Nonattainment NSR) for the fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) which were published on July 18, 1997 (62 FR 38652) and revised on October 17, 2006 (71 FR 61144). In the May 16, 2008 *Federal Register* (73 FR 28321), EPA finalized the major source threshold, significant emissions rate, and offset ratios for PM_{2.5}, interpollutant trading for offsets and applicability of NSR to PM_{2.5} precursors. In the October 20, 2010 *Federal Register* (75 FR 64864), EPA finalized the PSD increments, the Significant Impact Levels (SILs), and the Significant Monitoring Concentration (SMC) for PM_{2.5}. The proposed rule changes will establish provisions for a major source threshold, significant emissions rate, offset ratios for PM_{2.5} NAAQS, interpollutant trading for offsets, SILs, and SMC that are consistent with those in the federal regulations set forth in 40 CFR § 51.165 and 40 CFR § 51.166.

The Department also proposes to correct an error in the definition of "major stationary source" in OAC 252:100-8-31. The current definition relating to municipal incinerators is more stringent than the federal definition set forth in 40 CFR § 51.166(b)(1).

The Department is proposing to modify Subchapter 3, Air Quality Standards and Increments, by the addition of the annual and 24-hour PM_{2.5} increments to OAC 252:100-3-4, Significant deterioration increments. In the October 20, 2010 *Federal Register* (75 FR 64864), EPA finalized the PSD increments for PM_{2.5}.

The Department is proposing to clarify language in Subchapter 2, Incorporation By Reference, and to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. Included are changes or additions to 40 CFR Part 61, New Source Performance Standards (NSPS), and Part 63, National Emissions Standards for Hazardous Air Pollutants (NESHAP).

The Department is proposing to add a new section OAC 252:100-5-2.3 to Subchapter 5 of the air pollution control rules that will alter the Air Quality Division's current fee structure. The new section would allow the agency to invoice for emissions of hazardous air pollutants, lead, and lead compounds at a rate different from other regulated air pollutants and would require area sources subject to a NESHAP to pay an annual operating fee. In addition, the Department is considering an increase to permit application fees for both minor facilities and Part 70 sources by amending OAC 252:100-7, Part 2 and OAC 252:100-8, Part 3. The changes are designed to offset legislative budgetary shortfalls and cover current and anticipated staffing requirements in administering the Department's air pollution control programs.

The Department is proposing to amend Appendix A of OAC 252:100-17, Incinerators, to correct inaccuracies in Appendix A.

The Department proposes changing Appendix E to maintain consistency with the NAAQS. Specifically, the nitrogen dioxide (NO₂) and sulfur dioxide (SO₂) primary standards would be modified to reflect recent changes made by the EPA.

AUTHORITY:

Generally, Environmental Quality Board powers and duties, 27A O.S. § 2-2-101, and 27A O.S. § 2-5-106; Air Quality Advisory Council powers and duties, 27A O.S. § 2-2-201 and 27A O.S. § 2-5-107; and Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 through -117, and specifically 27A O.S. §§ 2-5-105 (OAC 252:100, Subchapters 1, 2, 3, 5, 7, 8, and Appendices A and E), -112 (Subchapters 1, 2, 3, 7, 8, and 31, and Appendices A and Q), -113 (Subchapters 5, 7, and 8), and -114 (Subchapter 5 and Appendix Q).

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 19, 2011. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 19, 2011 hearing and at the February 25, 2011 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 19, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Friday, February 25, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State

Implementation Plan (SIP) under the requirements of 40 CFR § 51.102 and 27A O.S. § 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. § 2-5-107(3).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

RULE IMPACT STATEMENTS:

The rule impact statements are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #10-1316; filed 11-22-10]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 110. LEAD-BASED PAINT MANAGEMENT**

[OAR Docket #10-1317]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

- 252:110-1-1. Purpose [AMENDED]
- 252:110-1-2. Basis and authority [AMENDED]
- 252:110-1-7. Reference to 40 CFR [REVOKED]
- Subchapter 5. Incorporation by Reference
- 252:110-5-1. Incorporation by reference [AMENDED]
- Subchapter 15. Additional Renovation, Repair, and Painting (RRP) Requirements [NEW]
- 252:110-15-1. Definitions [NEW]
- 252:110-15-2. Scope [NEW]
- 252:110-15-3. Applicable dates [NEW]
- 252:110-15-4. Training programs accredited by other states or agencies [NEW]
- 252:110-15-5. Renovator certification requirements [NEW]
- 252:110-15-6. Certification of firms conducting renovation services [NEW]
- 252:110-15-7. Fees [NEW]

SUMMARY:

The Department is proposing to amend OAC 252:110, Lead-Based Paint Management, to add a new Subchapter 15, Additional Renovation, Repair, and Painting (RRP) Requirements. The proposed rule would establish state requirements that are consistent with those established by the U.S. Environmental Protection Agency (EPA) in 40 CFR Part 745 and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities, and schools built before 1978. This rule revision is essential to the Department's efforts to obtain EPA authorization to administer the Lead-Based Paint Renovation Program in Oklahoma. The proposal would establish fees for obtaining and renewing firm certifications and other associated services, which would be assessed after EPA has delegated the Department authority for the program. This proposed state rule is no more stringent than the federal rule and would incorporate changes to be consistent with the Department's current rules. In addition, the proposal includes amending OAC 252:110-5, Incorporation by Reference, to be consistent with the new subchapter.

The Department is proposing to revoke OAC 252:110-1-7, General Provisions, Reference to 40 CFR because it is a duplication of language already included in Subchapter 5, Incorporation by Reference. It is also proposing to amend OAC 252:110-1-1, Purpose, and OAC 252:110-1-2, Basis of Authority, to clarify regulatory language.

AUTHORITY:

Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Lead-Based Paint Management Act, 27A O.S. §§ 2-12-101 and 2-12-201.

COMMENT PERIOD:

Written comments on the proposed rulemaking will be accepted prior to and at the hearing on January 19, 2011. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 19, 2011

Notices of Rulemaking Intent

hearing and at the February 25, 2011 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on January 19, 2011 at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on February 25, 2011, at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing at the Air Quality Division of the Department at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm, or copies may be obtained from the Department by calling Cheryl E. Bradley, Environmental Programs Manager at (405)702-4100.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained by contacting Cheryl E. Bradley, Environmental Programs Manager at (405)702-4100.

CONTACT PERSON:

Please send written comments on the proposed rule changes to Cheryl E. Bradley, Environmental Programs Manager at Cheryl.Bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #10-1317; filed 11-22-10]

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

[OAR Docket #10-1334]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

317:2-1-6. [AMENDED]

317:2-1-14. [NEW]

(Reference APA WF # 10-31)

SUMMARY:

OHCA grievance procedure and process rules are revised to provide for an appeals process for purchasing decisions made internally at OHCA, pursuant to 74 Okla. Stat., §85.5 (T). Further revisions are made to clean up simple terminology within the existing language. These revisions are needed to provide immediate consistency and clarity within agency purchasing rules.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1334; filed 11-23-10]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 10. PURCHASING**

[OAR Docket #10-1319]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 317:10-1-1. [AMENDED]
- 317:10-1-2. [AMENDED]
- 317:10-1-3. [AMENDED]
- 317:10-1-4. [AMENDED]
- 317:10-1-5. [REVOKED]
- 317:10-1-6. [REVOKED]
- 317:10-1-7. [REVOKED]
- 317:10-1-8. [REVOKED]
- 317:10-1-9. [REVOKED]
- 317:10-1-10. [REVOKED]
- 317:10-1-11. [REVOKED]
- 317:10-1-12. [AMENDED]
- 317:10-1-15. [REVOKED]
- 317:10-1-16. [AMENDED]
- 317:10-1-17. [REVOKED]
- 317:10-1-18. [REVOKED]
- 317:10-1-18.1. [REVOKED]
- 317:10-1-18.2. [REVOKED]
- 317:10-1-19. [REVOKED]
- 317:10-1-20. [REVOKED]

(Reference APA WF # 10-09)

SUMMARY:

OHCA contract and purchasing rules are revised to better coordinate and comply with new purchasing rules and regulations from the Oklahoma Department Central Services (DCS). Proposed revisions will: (1) incorporate updated procedures corresponding to higher purchasing thresholds; (2) allow OHCA subject matter experts to make purchases in house without DCS approval, pursuant to 74 O.S., §85.5 (T); (3) provide for the appeals process on these purchases to be handled by OHCA; (4) remove unnecessary language; and (5) update policy to reflect changes in the internal purchasing manual. These revisions are needed to provide immediate consistency and clarity within agency rules.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Oklahoma Central Purchasing Act, and 74 Okla. Stat. §§ 85.1 et seq.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1319; filed 11-23-10]

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

[OAR Docket #10-1329]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 7. SoonerCare
- Part 1. General Provisions
- 317:25-7-7. [NEW]

(Reference APA WF # 10-25)

SUMMARY:

SoonerCare Choice rules are revised to include procedures and guidelines related to primary care provider (PCP) referrals under the current medical home model. The PCP referral process is clearly defined, including the appropriate use of OHCA administrative referrals. Rules further explain provider expectations and provide guidelines regarding PCP

Notices of Rulemaking Intent

referrals, medical necessity, medical record documentation, and OHCA administrative referrals. These revisions continue to strengthen the OHCA medical home model and SoonerCare Choice program.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1329; filed 11-23-10]

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

[OAR Docket #10-1318]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 83. ~~Residential Behavior Management Services in Foster Care Settings~~ Outpatient Behavioral Health Services in Therapeutic Foster Care Homes

317:30-5-740. [AMENDED]

317:30-5-740.1. [AMENDED]

317:30-5-741. [AMENDED]

317:30-5-742. [AMENDED]

317:30-5-742.1. [AMENDED]

317:30-5-742.2. [AMENDED]

317:30-5-743. [REVOKED]

317:30-5-743.1. [AMENDED]

317:30-5-744. [AMENDED]

317:30-5-745. [AMENDED]

(Reference APA WF # 10-02)

SUMMARY:

Rules are revised to change the reimbursement methodology for outpatient behavioral health services provided in Therapeutic Foster Care settings from an all inclusive per diem payment to fee-for-service. The requirement of "unbundling" per diem rates has been an ongoing trend for the Centers for Medicare and Medicaid Services (CMS). This change will more closely align our reimbursement with CMS preferences and requirements. Rules are also revised to update terminology, provider requirements and coverage guidelines.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1318; filed 11-23-10]

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

[OAR Docket #10-1321]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 25. Psychologists
- 317:30-5-275. [AMENDED]
- 317:30-5-276. [AMENDED]
- 317:30-5-278. [AMENDED]
- Part 26. Licensed Behavioral Health Providers [NEW]
- 317:30-5-280. [NEW]
- 317:30-5-281. [NEW]
- 317:30-5-282. [NEW]
- 317:30-5-283. [NEW]

(Reference APA WF #10-15)

SUMMARY:

Rules are revised to allow direct reimbursement to licensed masters level behavioral health professionals who, under current rules, are only allowed to provide services in agency settings. Additionally, psychologist rules are revised to update provider requirements, terminology and to require prior authorization of services for all services provided except the initial assessment, health and behavior codes and/or crisis intervention. Revisions require LBHPs and Psychologist to complete a customer data core (CDC) assessment sheet to receive reimbursement for services. The CDC data enables OHCA to review quality of service.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1321; filed 11-23-10]

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

[OAR Docket #10-1323]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Individual Providers and Specialties
 - Part 79. Dentists
 - 317:30-5-700. through 317:30-5-700.1 [AMENDED]
- (Reference APA WF # 10-17)

SUMMARY:

Dental rules are revised to include that members must obtain a referral from a primary care dentist before services will be authorized, add specific member requirements that must be met before eligibility for orthodontic services are considered, documentation required in order to receive prior authorization, limits on the types of orthodontic therapy allowed, and the addition of progress reporting requirements.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes, 42 CFR 440.100

Notices of Rulemaking Intent

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1323; filed 11-23-10]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY

CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #10-1324]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-241.1. [AMENDED]

(Reference APA WF # 10-18)

SUMMARY:

Rules are being revised to reflect behavioral health assessments and service plan development may only be

provided by licensed behavioral health professionals. Currently, bachelor level Certified Alcohol and Drug Counselors (CADCs) may perform substance abuse assessments in accordance with their Licensure Act. Due to accreditation standard requirements for Assessments, all outpatient agencies are required to conduct full bio-psycho-social assessments by a licensed Masters level professional. As a result, ODMHSAS and OHCA collaboratively agreed to restrict the realm of behavioral health assessments to licensed behavioral health professionals and disallow the use of CADCs for substance abuse assessments.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1324; filed 11-23-10]

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

[OAR Docket #10-1325]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 65. Case Management Services for Over 21
- 317:30-5-586.1. [REVOKED]
- 317:30-5-589. [REVOKED]
- Part 67. Behavioral Health Case Management Services
- 317:30-5-595. [AMENDED]
- 317:30-5-596. [AMENDED]
- (Reference APA WF # 10-19)**

SUMMARY:

Targeted Case Management rules are revised to provide clarity to SoonerCare providers. Currently policy conflicts with the agency's State Plan Amendment methodology which includes behavioral health case manager's travel time as a component of the case management rate.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1325; filed 11-23-10]

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

[OAR Docket #10-1326]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 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]
- 317:30-5-1098. [AMENDED]
- (Reference APA WF # 10-20)**

SUMMARY:

Rules are revised to clarify that smoking and tobacco use cessation counseling is a covered SoonerCare service for the Native American population through the Indian Health Service, Tribally Operated Programs and Urban Indian Clinics. The revision will eliminate any confusion regarding availability of services among I/T/U's providing SoonerCare services.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes; 42 CFR § 431.110

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

Notices of Rulemaking Intent

loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1326; filed 11-23-10]

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

[OAR Docket #10-1327]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 103. Qualified Schools as Providers of Health Related
Services

317:30-5-1023. [AMENDED]

317:30-5-1027. [AMENDED]

(Reference APA WF # 10-22)

SUMMARY:

Rules are being revised to add a new provider type and services description for services provided in schools. Therapeutic Behavioral Services will be furnished by a Behavior Health Schools Aide in order to improve a student's ability to function in the community and includes behavioral management, redirection and assistance in acquiring, retaining, improving, and generalizing socialization, communication and adaptive skills.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1327; filed 11-23-10]

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

[OAR Docket #10-1328]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 17. Medical Suppliers

317:30-5-211.5. [AMENDED]

(Reference APA WF # 10-24)

SUMMARY:

Durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) rules are revised to provide guidance regarding the delivery of DMEPOS products. Rules provide clarification and guidelines for product refills and reorders, including expected utilization patterns, member contact, and timelines. Rules also provide additional guidance in regard to products which are supplied and delivered via mail and the appropriate way for providers to bill for such items. Additional revisions include clarification in regard to the provider cost of delivery and additional language to clarify OHCA's intent on DMEPOS supplier maintenance in regard to equipment-related services.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1328; filed 11-23-10]

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

[OAR Docket #10-1330]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-2.1. [AMENDED]

(Reference APA WF # 10-26)

SUMMARY:

Program integrity audit/review rules are revised to give providers the option of requesting OHCA to perform a full-scope audit or utilize an extrapolation method to determine overpayments, if during a review a sample indicates an error rate greater than 10 percent of paid claims. If the full-scope audit produces an error rate less than the initial error rate, OHCA will bear the cost of the full-scope audit. However, if it produces an error rate equal to or greater than that of the initial audit, the provider will be responsible for the cost of the full-scope audit and repayment of the identified overpayment resulting from the review method chosen.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1330; filed 11-23-10]

Notices of Rulemaking Intent

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

[OAR Docket #10-1331]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 27. Independent Licensed Physical Therapists

317:30-5-293. [NEW]

Part 28. Occupational Therapy Services

317:30-5-299. [NEW]

Part 77. Speech and Hearing Services

317:30-5-680. [NEW]

(Reference APA WF # 10-27)

SUMMARY:

Agency rules are revised to provide guidance in regards to team therapy. Physical, occupational, and speech therapy rules will clarify that when multiple therapists, or therapy assistants, work together as a team to treat one or more SoonerCare members, each therapist or assistant cannot bill separately for the same or different service provided at the same time to the same member. Additionally, rules will provide clarification in regards to billing, multiple therapies, delivery of service, and determining the time counted for service units and codes.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1331; filed 11-23-10]

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

[OAR Docket #10-1332]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 21. Outpatient Behavioral Health Services

317:30-5-240. [AMENDED]

317:30-5-240.1. through 317:30-5-240.3. [AMENDED]

317:30-5-241. [AMENDED]

317:30-5-241.2. through 317:30-5-241.3. [AMENDED]

317:30-5-241.5. [AMENDED]

317:30-5-248. [AMENDED]

(Reference APA WF # 10-29)

SUMMARY:

Outpatient Behavioral Health Rules are revised to provide clarity and consistency to policy. Currently policy conflicts with ODMHSAS definition and credential requirements for BHRS. Additionally, rules are revised to clean up discrepancies between OHCA and ODMHSAS policy for consistency.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1332; filed 11-23-10]

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

[OAR Docket #10-1333]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 6. Inpatient Psychiatric Hospitals
- 317:30-5-95. [AMENDED]
- 317:30-5-95.4. through 317:30-5-95.6. [AMENDED]
- 317:30-5-95.8. through 317:30-5-95.10. [AMENDED]
- 317:30-5-95.13. through 317:30-5-95.16. [AMENDED]
- 317:30-5-95.18. through 317:30-5-95.20. [AMENDED]
- 317:30-5-95.22. through 317:30-5-95.40. [AMENDED]
- 317:30-5-95.42. [AMENDED]
- 317:30-5-96.2. through 317:30-5-96.4. [AMENDED]
- 317:30-5-96.7. [AMENDED]

(Reference APA WF # 10-30)

SUMMARY:

Modifications to the RTC rules allow the requirements for Community Based transitional level of care to be less restrictive as a step-down from standard RTC. By reducing the treatment requirements for the Community Based Transitional level of care, this allows facilities to step down that member to a lower level of RTC care and focus on transitioning the member back into the community, which supports RTC diversion.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1333; filed 11-23-10]

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

[OAR Docket #10-1338]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. General Provider Policies
- Part 1. General Scope and Administration
- 317:30-3-5. [AMENDED]
- (Reference APA WF # 10-42)

SUMMARY:

OHCA cost-sharing rules are revised to correspond with CMS nominal cost share guidelines pertaining to prescription

Notices of Rulemaking Intent

co-pays. Additionally, rules are clarified to state that a member's cost sharing liability is capped at 5% of the member's gross annual income.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 447.54

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1338; filed 11-23-10]

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

[OAR Docket #10-1322]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age
65 or Older in Mental Health Hospitals
Part 2. Medicaid Recovery Program

317:35-9-15. [AMENDED]

Subchapter 19. Nursing Facility Services

317:35-19-4. [AMENDED]

(Reference APA WF # 10-16)

SUMMARY:

Rules are revised to remove policy allowing OKDHS to conduct fair hearings in the estate recovery process for individuals in nursing facilities, ICF/MR's or other medical institutions, having a lien placed on their property. Current policy conflicts with State Statute at O.S. Title 63, Section 5051.3(B)(3) providing that the OHCA shall conduct the hearings. Elimination of the OKDHS hearing will prevent potential confusion in the estate recovery process as the State Medicaid Agency, the Oklahoma Health Care Authority will be conducting the hearings for its Medicaid members.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1322; filed 11-23-10]

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

[OAR Docket #10-1339]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 23. Living Choice Program
317:35-23-2. [AMENDED]
(Reference APA WF # 10-43)

SUMMARY:

Rules are revised to include new eligibility criteria for individuals transitioning from an institution to a home and community based setting through the Living Choice Demonstration program. Current rules require individuals to be institutionalized for a minimum of 6 months and be SoonerCare eligible for at least 30 days. Section 2403 of the Patient Protection and Affordable Care Act reduces the institutional stay requirement to a minimum of 90 consecutive days. Additionally, CMS has provided new guidance regarding the length of time required for Medicaid eligibility and has revised the eligibility time frame from 30 days to 1 day.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 2403 of the Patient Protection and Affordable Care Act

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1339; filed 11-23-10]

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

[OAR Docket #10-1335]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Insure Oklahoma Dental Services
317:45-13-1. [NEW]
(Reference APA WF # 10-32)

SUMMARY:

Insure Oklahoma rules are revised to add dental services requirements and benefits for children. The Oklahoma Health Care Authority (OHCA), as a requirement of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), will provide dental services to children who qualify for the Insure Oklahoma Individual Plan (IP). Rules will include requirements and benefits for direct dental coverage. The benefits extended to children will include class A, B, C, orthodontic care, and emergency dental services. All dental services for children will follow the American Academy of Pediatric Dentistry (AAPD) periodicity schedule.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar

Notices of Rulemaking Intent

amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1335; filed 11-23-10]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 50. HOME AND COMMUNITY BASED SERVICES WAIVERS

[OAR Docket #10-1320]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Medically Fragile Waiver Services [NEW]
317:50-1-1. through 317:50-1-16. [NEW]

(Reference APA WF # 10-13)

SUMMARY:

Rules are revised to implement a new Home and Community Based Waiver Program to accommodate the "medically fragile" population with medical conditions requiring services in excess of those offered by current HCBW programs. This Program will finance non-institutional long-term care services for individuals requiring skilled nursing or hospital level of care. Individuals must be at least 19 years of age, have a chronic medical condition which results in prolonged dependency on medical care for which daily skilled intervention is necessary and is characterized by one or more of the following: (1) a life threatening condition characterized by reasonably frequent periods of acute exacerbation which requires frequent medical supervision and/or physician consultation and which, in the absence of such supervision or consultation, would require hospitalization; (2) the individual requires frequent time consuming administration of specialized treatments which are medically necessary; (3) the individual is dependent on medical technology such that without the technology, a reasonable level of health could not be maintained.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1320; filed 11-23-10]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 50. HOME AND COMMUNITY BASED SERVICES WAIVERS

[OAR Docket #10-1336]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Sooner Seniors [NEW]
317:50-5-1. through 317:50-5-16. [NEW]

(Reference APA WF # 10-40)

SUMMARY:

Rules are revised to include language allowing for a new Home and Community Based Services Waiver. The Sooner

Seniors Waiver is targeted to members who are age 65 or older, have a clinically documented degenerative disease process and have been transitioned from a nursing facility to a home and community based setting through the Living Choice demonstration program. The new waiver allows members to continue receiving the same home and community based services offered through Living Choice.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1336; filed 11-23-10]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 50. HOME AND COMMUNITY
BASED SERVICES WAIVERS**

[OAR Docket #10-1337]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. My Life, My Choice [NEW]
317:50-3-1. through 317:50-3-16. [NEW]
(Reference APA WF # 10-41)

SUMMARY:

Rules are revised to include language allowing for a new Home and Community Based Services Waiver program. The My Life, My Choice Waiver is targeted to members who are 20 to 65 years of age, have a physical disability and have been transitioned from a nursing facility to a home and community based setting through the Living Choice demonstration program. The new waiver allows members to continue receiving the same home and community based services offered through Living Choice.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2010, through January 14, 2011, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Tuesday, January 19, 2011, at 12:30 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #10-1337; filed 11-23-10]

Notices of Rulemaking Intent

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 1. ADMINISTRATION AND ORGANIZATION

[OAR Docket #10-1308]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

435:1-1-7. Fees [AMENDED]

SUMMARY:

The proposed amendments set fees for a new profession, Therapeutic Recreation Specialist, created by the provisions in 2009 Senate Bill 546, the Therapeutic Recreation Practice Act, which became effective November 1, 2010. The fees being set are for initial licensure, biennial renewal, late renewal and modification/replacement of license.

AUTHORITY:

Title 59 O.S., Section 540.5, State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from December 15, 2010 to March 4, 2011. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on March 10, 2011, 9:00 a.m. at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, 73015. Written notice of intent to make oral comment must be received by this office no later than March 4, 2011.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, 73105.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after December 15, 2010 at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, 73105.

CONTACT PERSON:

Kathy Plant, Executive Secretary (405) 962-1400, ext. 122

[OAR Docket #10-1308; filed 11-18-10]

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

[OAR Docket #10-1311]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 4. Application and Examination Procedures for Licensure as Physician and Surgeon

435:10-4-5. Additional requirements for foreign applicants [AMENDED]

SUMMARY:

The proposed amendments reflect changes in the law [amended by Laws 2009, HB 1897, c. 261, § 4, emerg. eff. July 1, 2009] requiring that applicants for licensure have a Doctor of Medicine degree or a Board- approved equivalent as evidenced by recognized national and international resources available to the Board. The current rule says that the education provided by the school must be equivalent to the education and training offered by the University of Oklahoma School of Medicine.

AUTHORITY:

Title 59 O.S., Sections 489 and 493.2, State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from December 15, 2010 to March 4, 2011. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on March 10, 2011, 9:00 a.m. at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 4, 2011.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after December 15, 2010 at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, 73105.

CONTACT PERSON:

Kathy Plant, Executive Secretary (405) 962-1400, ext. 122

[OAR Docket #10-1311; filed 11-18-10]

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

[OAR Docket #10-1312]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Licensure of Physician Assistants
435:15-3-17. Continuing education for renewal
[AMENDED]

SUMMARY:

The proposed amendments clarify that Physician Assistants must obtain their continuing education hours within the previous calendar year in order to renew before March 31st as set out in the law at Title 59 O.S. Section 519.8. The amendments also add a penalty for failure to comply with continuing education requirements.

AUTHORITY:

Title 59 O.S., Section 519.3(D), State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from December 15, 2010 to March 4, 2011. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on March 10, 2011, 9:00 a.m. at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 4, 2011.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after December 15, 2010 at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, 73105.

CONTACT PERSON:

Kathy Plant, Executive Secretary (405) 962-1400, ext. 122

[OAR Docket #10-1312; filed 11-18-10]

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 55. LICENSED ORTHOTISTS AND PROSTHETISTS AND REGISTERED TECHNICIANS AND ASSISTANTS**

[OAR Docket #10-1310]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Licensure/Registration/Reinstatement
435:55-3-5. Standard requirements for orthotic/prosthetic licensure [AMENDED]

SUMMARY:

The proposed amendments would change the rule to reflect changes in the law made in HB2678 to allow those who have current certification by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification to apply for licensure.

AUTHORITY:

Title 59 O.S., Section 2304, State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from December 15, 2010 to February 21, 2011. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on February 25, 2011, 11:00 a.m. at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than February 21, 2011.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after December 15, 2010 at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, 73105.

CONTACT PERSON:

Kathy Plant, Executive Secretary (405) 962-1400, ext. 122

[OAR Docket #10-1310; filed 11-18-10]

Notices of Rulemaking Intent

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

[OAR Docket #10-1309]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 70. Therapeutic Recreation [NEW]

SUMMARY:

The proposed new rules implement the provisions in Senate Bill 546, the Therapeutic Recreation Practice Act, which became effective November 1, 2010. The rules clarify requirements for licensure, re-licensure and regulation of Therapeutic Recreation Specialists.

AUTHORITY:

State Board of Medical Licensure and Supervision, 59 O.S., § 540.5

COMMENT PERIOD:

The comment period will run from December 15, 2010 to January 18, 2011. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on January 20, 2011, 3:00 p.m. at the office of the Board, 101 NE 51st Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than January 18, 2011.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the office of the Board, 101 NE 51st, Oklahoma City, Oklahoma, 73105. The proposed rules are also available on the Board's web site at www.okmedicalboard.org.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available at the office of the Board, 101 NE 51st, Oklahoma City, Oklahoma, 73105 for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Kathy Plant, Executive Secretary (405) 962-1400, ext. 122

[OAR Docket #10-1309; filed 11-18-10]

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

[OAR Docket #10-1347]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administration [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 1 are part of the Department's review of Title 450. The proposed rules clarify existing rules concerning the establishment of fixed uniform rates.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-110, 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415; 74 O.S. §85.9G.

COMMENT PERIOD:

Persons wishing to submit written comments may do so from December 16, 2010 until 5:00 p.m., January 16, 2011, to the attention of Gretchen Geis, 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) 522-0637 or by email at ggeis@odmhsas.org.

PUBLIC HEARING:

The Department will conduct a public hearing on January 18, 2011 at 10:00 a.m. in Conference Room A 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 Gretchen Geis, at the above address, before the close of the comment period on January 16, 2011.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Gretchen Geis, Administrative Rules Liaison, at the above address or through the ODMHSAS website at odmhsas.org.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 30, 2010. Copies may be obtained from the Department's website at www.odmhsas.org or from Gretchen

Geis, Administrative Rules Liaison, at the above address or email at ggeis@odmhsas.org.

CONTACT PERSON:

Gretchen Geis, Administrative Rules Liaison, (405) 522-3879 or ggeis@odmhsas.org.

[OAR Docket #10-1347; filed 11-24-10]

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

[OAR Docket #10-1348]

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 December 16, 2010 until 5:00 p.m., January 16, 2011, to the attention of Gretchen Geis, 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) 522-0637 or by email at ggeis@odmhsas.org.

PUBLIC HEARING:

The Department will conduct a public hearing on January 18, 2011 at 11:00 a.m. in Conference Room A 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 Gretchen Geis, at the above address, before the close of the comment period on January 16, 2011.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department's website at www.odmhsas.org or from Gretchen

Geis, Administrative Rules Liaison, at the above address or email at ggeis@odmhsas.org.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 30, 2010. Copies may be obtained from the Department's website at www.odmhsas.org or from Gretchen Geis, Administrative Rules Liaison, at the above address or email at ggeis@odmhsas.org.

CONTACT PERSON:

Gretchen Geis, Administrative Rules Liaison, (405) 522-3879.

[OAR Docket #10-1348; filed 11-24-10]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 50. STANDARDS AND CRITERIA FOR CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS**

[OAR Docket #10-1349]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 50. Standards and Criteria for Certified Behavioral Health Case Managers [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 50 are part of the Department's review of Title 450. The proposed rule changes will help increase uniformity with the Oklahoma Health Care Authority policies for Case Management certification and will clarify expectations for certification requirements.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306 and 3-318.

COMMENT PERIOD:

Persons wishing to submit written comments may do so from December 16, 2010 until 5:00 p.m., January 16, 2011, to the attention of Gretchen Geis, 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, e-mailed to ggeis@odmhsas.org, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0637.

PUBLIC HEARING:

The Department will conduct a public hearing on January 18, 2011 at 1:00 p.m. in Conference Room A of the Department at the address given above.

Notices of Rulemaking Intent

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 Gretchen Geis, at the above address, before the close of the comment period on January 16, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 30, 2010. Copies may be obtained from the Department's website www.odmhsas.org or from Gretchen Geis, Administrative Rules Liaison, at the above address or email at ggeis@odmhsas.org.

CONTACT PERSON:

Gretchen Geis, Administrative Rules Liaison, (405) 522-3879.

[OAR Docket #10-1349; filed 11-24-10]

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

[OAR Docket #10-1350]

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 December 16, 2010 until 5:00 p.m., January 16, 2011,

to the attention of Gretchen Geis, 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) 522-0637 or by email at ggeis@odmhsas.org.

PUBLIC HEARING:

The Department will conduct a public hearing on January 18, 2011 at 2:00 p.m. in Conference Room A 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 Gretchen Geis, at the above address, before the close of the comment period on January 16, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 30, 2010. Copies may be obtained from the Department's website at www.odmhsas.org or from Gretchen Geis, Administrative Rules Liaison, at the above address or email at ggeis@odmhsas.org.

CONTACT PERSON:

Gretchen Geis, Administrative Rules Liaison, (405) 522-3879.

[OAR Docket #10-1350; filed 11-24-10]

**TITLE 465. OKLAHOMA MOTOR VEHICLE
COMMISSION
CHAPTER 10. LICENSE**

[OAR Docket #10-1305]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULE:

Subchapter 3. License Identification and Changes

465:10-3-3. [AMENDED]

465:10-3-4. [AMENDED]

SUMMARY:

The proposed change to 465:10-3-3 will amend the rule to match the statute relating to the transfer of Salesperson Licenses. The proposed change to 465:10-3-4 clarifies which

licensees are required to report certain changes related to their business.

AUTHORITY:

Oklahoma Motor Vehicle Commission, 47 O.S. Sections 563(F), 564, 564.1, and 565.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 4:30 p.m. on Monday, January 17, 2011 at the Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing has not been scheduled, however, "persons may demand a hearing" pursuant to and in accordance with 75 O.S., Section 303 (B)(8). Please make your request in writing by January 17, 2011 to the Oklahoma Motor Vehicle Commission at the location listed above.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by Monday, January 17, 2011, to the Oklahoma Motor Vehicle Commission at the location listed above.

COPIES OF PROPOSED RULE:

Copies of the proposed rules may be obtained directly from our website www.ok.gov/omvc or by fax or email (email@omvc.ok.gov) for free; or in person or by written request from the Oklahoma Motor Vehicle Commission located at the above named address at the cost of .25 cents per page. Each new motor vehicle dealer has been provided a copy of the proposed Rules in our quarterly newsletter via U.S. postal services.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared no later than December 22, 2010 and may be obtained from the Oklahoma Motor Vehicle Commission at the above address, or by fax or by email (email@omvc.ok.gov).

CONTACT PERSON:

Marilyn Maxwell, Deputy Director, 405-607-8227, ext 101

[OAR Docket #10-1305; filed 11-17-10]

**TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 15. ADVERTISING**

[OAR Docket #10-1306]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

465:15-1-2. [AMENDED]

Subchapter 3. Specific Advertising Regulations

465:15-3-2. [AMENDED]

465:15-3-7. [AMENDED]

465:15-3-8. [AMENDED]

465:15-3-9. [REVOKED]

465:15-3-14. [AMENDED]

SUMMARY:

The proposed rule amendments would modify the current advertising regulations. These amendments would update and provide clarity to the rules in response to the ever changing styles and trends of advertising by new motor vehicle dealers. The intended effect of the proposed amendments will assist the Commission with proper enforcement to protect the citizens of Oklahoma from false and misleading advertising and ensure fair treatment for all dealers.

AUTHORITY:

Oklahoma Motor Vehicle Commission, 47 O.S. Section 563 (F) and Section 565 5(b).

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 4:30 p.m. on Monday, January 17, 2011, at the Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing has not been scheduled, however, "persons may demand a hearing" pursuant to and in accordance with 75 O.S., Section 303 (B)(8). Please make your request in writing by January 17, 2011 to the Oklahoma Motor Vehicle Commission at the location listed above.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by Monday, January 17, 2011, to the Oklahoma Motor Vehicle Commission at the location listed above.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained directly from our website www.ok.gov/omvc or by fax or by email (email@omvc.ok.gov) for free; in person or by written request from the Oklahoma Motor Vehicle Commission located at the above named address at the cost of .25 cents per page. Each new motor vehicle dealer has been provided a copy of the proposed Rules in our quarterly newsletter via U.S. postal services.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared no later than December 22, 2010, and may be obtained from the Oklahoma Motor Vehicle Commission at the above address, or by fax or by email (email@omvc.ok.gov).

Notices of Rulemaking Intent

CONTACT PERSON:

Marilyn Maxwell, Deputy Director (405) 607-8227, ext 101

[OAR Docket #10-1306; filed 11-17-10]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 10. PUBLIC EMPLOYEES
RETIREMENT SYSTEM**

[OAR Docket #10-1301]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Public Employees Retirement System
[AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. The agency is considering proposals which are designed to make the administration of the Public Employees Retirement System more efficient and member service oriented or to ensure continued Plan qualification under the Internal Revenue Code. Proposed changes may include topics related to direct deposits, de minimus provisions, full-time-equivalent employment, delinquent service costs, required minimum distributions, transported and portable service, furloughs, post-retirement employment, assignment of death benefit, step-up election, and excess benefit plan.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 909.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 17, 2011, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 20, 2011, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, or on our website at <http://www.opers.ok.gov>.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 30, 2010, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #10-1301; filed 11-17-10]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 15. UNIFORM RETIREMENT
SYSTEM FOR JUSTICES AND JUDGES**

[OAR Docket #10-1302]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Uniform Retirement System for Justices and Judges [AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. The agency is considering proposals which are designed to make the administration of the Uniform Retirement System for Justices and Judges more efficient and member service oriented or to ensure continued Plan qualification under the Internal Revenue Code. Proposed changes may include topics related to required minimum distributions, excess benefit plan and federal benefit limitations, and conforming to federal tax code.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 909 and 20 O.S. Sections 1101.1 and 1108.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 17, 2011, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 20, 2011 in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from

Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, or on our website at <http://www.opers.ok.gov>.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 30, 2010, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #10-1302; filed 11-17-10]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 25. DEFERRED
COMPENSATION**

[OAR Docket #10-1303]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 25. Deferred Compensation [AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. The agency is considering proposals which are designed to make the administration of the Public Employees Retirement System and the Deferred Compensation Plan more efficient and member service oriented or to ensure continued Plan qualification under the Internal Revenue Code. Proposed changes may include topics related to keeping the Deferred Compensation Plan in compliance with requirements of the federal tax laws and the rules of the Internal Revenue Service, and modifying and updating distribution schedule and time period for payment of benefits.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 1701.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 17, 2011, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 20, 2011, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, or on our website at <http://www.opers.ok.gov>.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 30, 2010, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #10-1303; filed 11-17-10]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 35. DEFERRED SAVINGS
INCENTIVE PLAN**

[OAR Docket #10-1304]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 35. Deferred Savings Incentive Plan [AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. The agency is considering proposals which are designed to make the administration of the Public Employees Retirement System and the Deferred Savings Incentive Plan more efficient and member service oriented or to ensure continued Plan qualification. Proposed changes may include topics related to keeping the Deferred Savings Incentive Plan in compliance with requirements of the federal tax laws and the rules of the Internal Revenue Service, modifying the commencement period of benefits, and updating language relating to certain payment options.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 1707.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 17, 2011, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

Notices of Rulemaking Intent

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 20, 2011, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, or on our website at <http://www.opers.ok.gov>.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 30, 2010, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #10-1304; filed 11-17-10]

TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 10. CENTER DIVISION PROGRAM

[OAR Docket #10-1346]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Maintenance Charges, Patient Funds and Assets
770:10-3-1 [AMENDED]

SUMMARY:

The rule as currently written mandates that a patient who is absent from an ODVA facility for medical treatment will not be responsible for his or her monthly maintenance charge after their fourth day of absence. This proposed amendment will extend that time from four days to ten days, which will be in accordance with the federal rules promulgated by the U.S. Department of Veterans Affairs. The current rule mandates that a patient who is absent from a facility for "personal" reasons of their own volition shall be responsible for their monthly charge while their bed is being held open for them. This proposed revision will delete the word "personal".

AUTHORITY:

72 OS Section 63.5; Oklahoma Department of Veterans Affairs

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 PM on January 16, 2011, at the following address: Martha Spear, Executive Director, Oklahoma Department of Veterans Affairs, 2311 N Central, Oklahoma City, OK 73105, 405.521.3684.

PUBLIC HEARING:

A public hearing is not currently scheduled, but a request for one could be made to the above listed individual by 4:30 PM on January 16, 2011

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

NA

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the Oklahoma Department of Veterans Affairs, 2311 N Central, Oklahoma City, OK 73105, 405.521.3684.

RULE IMPACT STATEMENT:

Pursuant to 75 OS Section 303 (D), a rule impact statement will be prepared and may be obtained from the Oklahoma Department of Veterans Affairs at the above address beginning December 15, 2010.

CONTACT PERSON:

Martha Spear or Jewell Coe, 405.521.3684

[OAR Docket #10-1346; filed 11-23-10]

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 25. OKLAHOMA AERONAUTICS COMMISSION CHAPTER 25. AVIATION EDUCATION PROGRAM

[OAR Docket #10-1314]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

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

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

SUBMITTED TO GOVERNOR:

November 18, 2010

SUBMITTED TO HOUSE:

November 18, 2010

SUBMITTED TO SENATE:

November 18, 2010

[OAR Docket #10-1314; filed 11-19-10]

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

[OAR Docket #10-1315]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

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]

Subchapter 5. Obstruction Standards [NEW]

25:30-5-1. Incompatible structures [NEW]

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 [NEW]

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]

Appendix A. [NEW]

SUBMITTED TO GOVERNOR:

November 18, 2010

SUBMITTED TO HOUSE:

November 18, 2010

SUBMITTED TO SENATE:

November 18, 2010

[OAR Docket #10-1315; filed 11-19-10]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 105. OKLAHOMA LOCAL DEVELOPMENT AND ENTERPRISE ZONE INCENTIVE LEVERAGE ACT

[OAR Docket #10-1313]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

150:105-1-2 [AMENDED]

150:105-1-4 [AMENDED]

SUBMITTED TO GOVERNOR:

November 19, 2010

SUBMITTED TO HOUSE:

November 19, 2010

SUBMITTED TO SENATE:

November 19, 2010

[OAR Docket #10-1313; filed 11-19-10]

Submissions for Review

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

[OAR Docket #10-1292]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

580:1-1-3 [AMENDED]

580:1-1-4 [AMENDED]

580:1-1-5 [NEW]

SUBMITTED TO GOVERNOR:

November 9, 2010

SUBMITTED TO HOUSE:

November 9, 2010

SUBMITTED TO SENATE:

November 9, 2010

[OAR Docket #10-1292; filed 11-10-10]

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

[OAR Docket #10-1293]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

580:70-1-3 [AMENDED]

SUBMITTED TO GOVERNOR:

November 9, 2010

SUBMITTED TO HOUSE:

November 9, 2010

SUBMITTED TO SENATE:

November 9, 2010

[OAR Docket #10-1293; filed 11-10-10]

TITLE 655. SECRETARY OF STATE CHAPTER 25. NOTARY PUBLIC

[OAR Docket #10-1297]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 25. Notary Public [AMENDED]

SUBMITTED TO GOVERNOR:

November 4, 2010

SUBMITTED TO HOUSE:

November 4, 2010

SUBMITTED TO SENATE:

November 4, 2010

[OAR Docket #10-1297; filed 11-12-10]

TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #10-1299]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Organizational Structure

770:1-3-1 [AMENDED]

Subchapter 5. Open Records Act

770:1-5-5 [AMENDED]

SUBMITTED TO GOVERNOR:

November 17, 2010

SUBMITTED TO HOUSE:

November 17, 2010

SUBMITTED TO SENATE:

November 17, 2010

[OAR Docket #10-1299; filed 11-17-10]

TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 10. CENTER DIVISION PROGRAM

[OAR Docket #10-1300]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 1. General Provisions

770:10-1-1 [AMENDED]

770:10-1-2 [AMENDED]

770:10-1-3 [AMENDED]

770:10-1-4 [AMENDED]

770:10-1-5 [REVOKED]

770:10-1-6 [REVOKED]

770:10-1-7 [REVOKED]

SUBMITTED TO GOVERNOR:

November 17, 2010

SUBMITTED TO HOUSE:

November 17, 2010

SUBMITTED TO SENATE:

November 17, 2010

[OAR Docket #10-1300; filed 11-17-10]

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 230. STATE ELECTION BOARD CHAPTER 10. THE COUNTY ELECTION BOARD

[OAR Docket #10-1296]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Election Personnel

Part 1. County Election Board Members and Employees

230:10-3-3. Appointment of County Election Board members and alternate members [AMENDED]

230:10-3-8. Salary of the Secretary [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

October 4, 2010

Approved by Governor:

November 3, 2010

Effective:

January 1, 2011

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that a compelling public interest exists requiring the adoption of emergency rules to implement certain provisions of Senate Bill 1910 which become effective on January 1, 2011. Senate Bill 1910 contains two provisions that affect Sections in Chapter 10.

The emergency amendments concern nominations for membership on the County Election Board and the salary of the County Election Board Secretary.

The Secretary finds that these emergency rules are necessary to conform the administrative rules to the amended law and to implement the new law, and that these needs meet the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

Senate Bill 1910 contains two provisions that affect Sections in Chapter 10.

The first provides an alternate means of obtaining nominations for membership on the County Election Board. The county central committees of the two largest recognized political parties in the state are required to submit nominees to the State Election Board for member and for alternate member on the County Election Board. The new language enacted by SB 1910 in Title 26, Section 2-111 allows the state central committee to submit nominees in the event that there is no county central committee for the party or if the county central committee fails to submit nominees. In the event that neither the county central committee nor the state central committee for a party submits nominees, the State Election Board is still authorized to appoint from the ranks of that party in the county. One Section in Chapter 10 is amended to include the new statutory language concerning the state central committee

The second provision of SB1910 concerns the salary of the County Election Board Secretary. The salary of the County Election Board Secretary is set by statute based on the number of active registered voters in the county. Title 26, Section 2-118 was amended by SB 1910 to include new language that allows a county to provide additional compensation to the County Election Board Secretary. The county is not required to provide additional compensation. However, if the county chooses to do so, such additional compensation may be paid from county funds, it is not considered part of the Secretary's salary as established by statute, and is not reimbursed to the county by the State Election Board. One Section is amended to include this new statutory language.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391. scox@elections.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2011:

SUBCHAPTER 3. ELECTION PERSONNEL

PART 1. COUNTY ELECTION BOARD MEMBERS AND EMPLOYEES

230:10-3-3. Appointment of County Election Board members and alternate members

(a) No later than April 15, 1999, and every four years thereafter, the county central committee of the two recognized political parties with the largest number of registered voters in the state each shall submit to the State Election Board the name of a nominee for County Election Board member and the name of a nominee for alternate member. [26:2-111] The State Election Board provides forms to the county central committee chairmen to use to submit the nominations. The nomination form must be signed by at least two members of the county central committee. [26:2-111] The State Election Board is limited to these nominees to appoint one County Election Board member and one alternate member from each party. [26:2-111] The County Election Board members and alternate members serve four-year terms, beginning May 1. If a County Election Board member is unable to attend a meeting, the alternate member of the same party shall serve on the County Election Board at that meeting. [26:2-111]

Emergency Adoptions

(b) If the county central committee for a party in a county fails to submit a nominee or if there is no county central committee for a party in a county, the state central committee for the party may submit to the State Election Board a nominee for membership on the County Election Board and a nominee to serve as the alternate member. [26:2-111]

(c) If the county central committee fails to submit nominees by April 15 as outlined in (a) of this Section, the State Election Board shall appoint a member and an alternate member to the County Election Board from the ranks of that party within the county. [26:2-111]

230:10-3-8. Salary of the Secretary

(a) The Secretary is paid on a monthly basis from county funds. Each month the State Election Board shall reimburse the county for the salary and fringe benefits paid to the Secretary, not to exceed 135 percent of the salaries specified. [26:2-118] The Secretary's salary is set by law and is based on the number of active registered voters in the county on January 1 of each odd-numbered year. [26:2-118]

(b) The Secretary of the State Election Board shall determine the appropriate salary level for each County Election Board Secretary, and shall notify the County Clerk in each county in January of each odd-numbered year. Any salary change shall take effect at the beginning of the County Election Board Secretary's term on May 1 of each odd-numbered year and shall remain in effect throughout the two-year term.

(c) In the event that a County Election Board is under administrative supervision of the State Election Board, as outlined in 230:10-3-9.1, at the time a salary increase becomes effective, the Secretary of that County Election Board shall not receive the salary increase. [26:2-118] The Secretary shall be entitled to receive the salary increase at the time that the administrative supervision ends. The salary increase shall not be retroactive to the time the salary increase generally became effective.

(d) The salary of a County Election Board Secretary shall not fall below the level of the salary paid in the county on April 30, 2003, regardless of the number of active registered voters in the county. [26:2-118] The salary of a County Election Board Secretary who is reappointed to a new two-year term as Secretary shall not fall below the salary received in the immediately preceding term. [26:2-118] A County Election Board Secretary serving on April 30, 2004, shall not receive a salary increase if said Secretary is paid an amount greater than the amount of the scheduled salary for the county as provided by law. [26:2-118]

(e) A county may provide additional compensation to the Secretary of the County Election Board. [26:2-118] Such additional compensation shall be paid from county funds; shall not be considered part of the Secretary's salary as established by law; and shall not be reimbursed to the county by the State Election Board. [26:2-118]

[OAR Docket #10-1296; filed 11-10-10]

TITLE 230. STATE ELECTION BOARD CHAPTER 15. VOTER REGISTRATION

[OAR Docket #10-1295]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 11. Voter Registration List Maintenance

Part 1. Cancellation of Voter Registration

230:15-11-3. Written notice by voter [AMENDED]

230:15-11-4. Processing cancellations of registration [AMENDED]

230:15-11-6.1. Cancellation of registration of deceased voter upon notice of nursing home administrator, veteran center administrator, or licensed funeral director [AMENDED]

Part 3. Voter Registration Address Confirmation

230:15-11-19. Voter registration address confirmation mailing [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

October 4, 2010

Approved by Governor:

November 3, 2010

Effective:

January 1, 2011

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that a compelling public interest exists requiring the adoption of emergency rules. Provisions of Senate Bill 1910, which becomes effective January 1, 2011, affect Sections in Chapter 15. Emergency amendments are needed to provide County Election Board personnel with information and instructions to implement the new statutory requirements on January 1.

Title 26 O.S., Section 4-120.1 is amended by SB 1910 to allow certain requests and notices for cancellation of voter registration to be witnessed by two persons who provide their names and addresses instead of requiring such requests and notices to be notarized or witnessed by election officials. Other provisions of SB 1910 allow a certified copy of a death certificate to be used to cancel a voter's registration, include administrators of veteran centers and licensed funeral directors among those authorized to submit notice of a county resident's death to the County Election Board, and permit the State Election Board to send address confirmation notices to voters based on information gained by comparing Oklahoma's statewide voter registration database to the databases of other states.

The Secretary finds that these emergency rules are necessary to conform the administrative rules to the amended law, as well as to include appropriate procedures to implement the new law, and that these needs meet the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

Senate Bill 1910 becomes effective January 1, 2011. Several provisions of the bill affect Sections in Chapter 15.

Title 26, Section 4-120.1 is amended to provide that a voter's written request for cancellation of his own voter registration may be witnessed by two persons who provide their names and addresses. Previously, such requests were required to be notarized. Two Sections are amended to include this information.

Title 26, Section 4-120.3 is amended to provide that a certified copy of a death certificate may be used to cancel the registration of a deceased voter; that written requests from the next of kin of a deceased voter may be witnessed by two persons who provide their names and addresses on the request, and to include veteran center administrators and licensed funeral directors among the persons authorized to notify the County Election Board Secretary of the death of county residents and to permit the Secretary to cancel the registration of deceased voters upon receipt of such notification. Several Sections are amended to include this new information. At least one existing form, the

Notification of Nursing Facility Resident's Death form, will be revised to accommodate use by veteran center administrators and licensed funeral directors.

Title 26, Section 4-120.2 is amended to include voters identified as potential duplicates in another state among the voters who receive the address confirmation mailing. One Section is amended to include this new information.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2011:

SUBCHAPTER 11. VOTER REGISTRATION LIST MAINTENANCE

PART 1. CANCELLATION OF VOTER REGISTRATION

230:15-11-3. Written notice by voter

A registered voter may have his registration cancelled by submitting a written, notarized notice to the Secretary of the County Election Board. [26:4-120.1] The notice must state the fact that the voter no longer desires to be a registered voter of the county. The notice must be signed and dated by the voter. The written notice either shall be notarized or shall be witnessed by two persons whose names and addresses are included on the notice. [26:4-120.1]

230:15-11-4. Processing cancellations of registration

(a) Upon receipt of proper notice, and upon positive identification of the voter, the Secretary of the County Election Board shall cancel a voter's registration. Cancellations shall be processed as soon as possible after the receipt of proper notice. Proper notice shall include the following:

- (1) Potential Deletion Report. See 230:15-11-5.
- (2) Cancellation of Registration of Deceased Voter by Next of Kin form See 230:15-11-6(a).
- (3) Request to Cancel Registration of Deceased Voter form. See 230:15-11-6(b).
- (4) Notification of ~~Nursing Facility County Resident's Death form.~~ See ~~230:15-11-6(c)~~ 230:15-11-6.1.
- (5) Judgment of Incapacitation Report form. See 230:15-11-7.
- (6) Potential Duplicate Registration Report. See 230:15-11-9.
- (7) Notice of registration in another state.
- (8) Notice of state or federal felony conviction. See 230:15-11-8.
- (9) ~~Written, notarized~~ request from voter for cancellation of registration. Such a written request from a voter either shall be notarized or shall be witnessed by two persons

who provide their names and addresses on the request. See 230:15-11-3.

(10) True Duplicates Deleted Report. See 230:15-11-10.

(11) Address confirmation return card indicating voter has moved out of the county. See 230:15-11-24.

(12) A certified copy of a death certificate.

(b) Cancellations of registration shall be processed according to the following procedure:

(1) Delete the voter's registration information from OEMS.

(2) Remove the voter's registration form from the Central File and place the registration form in the Cancellation File. Retain as outlined in 230:10-7-40.

(43) Retain the notice document used to cancel a registration for 24 months after the cancellation.

230:15-11-6.1. Cancellation of registration of deceased voter upon notice of nursing home administrator, veteran center administrator, or licensed funeral director

An administrator of a nursing home, an administrator of a veteran center, or a licensed funeral director may execute a Notification of ~~Nursing Facility County Resident's Death form~~ to notify the Secretary of the County Election Board of the death of a resident of the ~~nursing home county~~ who was may have been a registered voter. [26:4-120.3] The A nursing home or veteran center administrator's signature on the form may be notarized or it may be witnessed by a member of the nursing home Absentee Voting Board when the Board delivers absentee ballots to residents of the nursing facility or veteran center prior to an election. A licensed funeral director's signature on the form may be notarized or it may be witnessed by two persons whose names and addresses are also provided on the form. Upon receipt of such a notification, and upon identification of the person as a registered voter in the county, the Secretary shall cancel the voter registration of the deceased voter. See 230:15-11-4 (b). The Secretary shall provide copies of the form to the administrator of each nursing facility or veteran center and to each licensed funeral director in the county along with instructions for use of the form. [26:4-120.3]

PART 3. VOTER REGISTRATION ADDRESS CONFIRMATION

230:15-11-19. Voter registration address confirmation mailing

(a) No later than June 1, 1997, and every two years thereafter, the Secretary of the State Election Board shall cause an address confirmation notice to be prepared and mailed to active registered voters who meet one or more of the following requirements:

(1) Voters listed on the Statewide Potential Duplicate Registration Report.

(2) Voters for whom a first-class mailing from a County Election Board was returned undelivered by the post office

Emergency Adoptions

during the previous 24 months. For the purpose of the address confirmation notice process, a first-class mailing shall include only voter identification cards generated by OEMS and rejection notices for applications for change of voter registration.

(3) Voters who have neither voted in any election conducted by a County Election Board nor initiated any voter registration change since the second previous General Election.

(4) Voters who have surrendered their Oklahoma driver's licenses to the Department of Public Safety after receiving a driver's license in another state during the preceding 24 months.

(5) Voters identified as possibly being registered to vote in another state from comparison of Oklahoma's statewide voter registration database information with the voter registration databases of other states.

(b) The address confirmation notice shall include a return card for the voter to provide his or her current address. The return cards shall be addressed to the State Election Board. The State Election Board shall receive the return cards and then shall forward them to the County Election Board to be processed.

(c) Address confirmation notices shall be sent by first-class, forwardable mail and shall include a pre-addressed, postage paid return card. The address confirmation notice materials shall be prepared and mailed under the supervision of the Secretary of the State Election Board. All costs associated with preparing and mailing confirmation notices and with receiving return cards and distributing them to the various County Election Boards shall be paid by the State Election Board.

(d) Address confirmation return cards and undelivered address confirmation notices shall be received by the State Election Board. Accumulated return cards and undelivered confirmation notices shall be sorted and distributed to the County Election Boards on a regular basis.

(e) County Election Board personnel shall stamp the received date on each address confirmation return card when it is received from the State Election Board.

[OAR Docket #10-1295; filed 11-10-10]

TITLE 230. STATE ELECTION BOARD CHAPTER 35. ELECTION CONDUCT

[OAR Docket #10-1294]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Instructions for Precinct Election Officials

Part 7. General Guidelines

230:35-5-39. Violations of the law [AMENDED]

Part 29. Violations of the Law

230:35-5-144. Voting ballots issued [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

October 4, 2010

Approved by Governor:

November 3, 2010

Effective:

January 1, 2011

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that a compelling public interest exists requiring the adoption of emergency rules to implement a certain provision of Senate Bill 1921 which becomes effective January 1, 2011.

SB 1921 concerns offenses and penalties in the election laws. It reclassifies certain offenses that previously were misdemeanors as felonies and creates several new felonies. SB 1921 includes a new Section of law codified as Title 26, Section 16-102.1, which makes it a felony for an unauthorized person to carry a ballot into a polling place or to remove a ballot from a polling place. Two Sections in Chapter 35 are amended to include this new language.

The Secretary finds that these emergency rules are necessary to conform the administrative rules to the amended law and to implement the new law, and that these needs meet the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

Title 26, Section 16-102.1 is a new law included in Senate Bill 1921 that becomes effective on January 1, 2011.

This new law makes it a felony offense for an unauthorized person to carry a ballot into a polling place or to remove a ballot from a polling place. The new law does not apply to Precinct Officials, who are, of course, authorized to deliver blank ballots to the polling place and to remove ballots at the end of the election day.

Two Sections in Chapter 35 are amended to include this new statutory language. The two Sections already state that a voter must vote only the ballot issued to him by Precinct Officials and that such issued ballot cannot be removed by the voter from the polling place.

A sign that is posted at polling places on election day must be revised and reprinted to include this information, as well as other information about violations of election law that are affected by provisions of SB 1910.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391. scox@elections.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2011:

SUBCHAPTER 5. INSTRUCTIONS FOR PRECINCT ELECTION OFFICIALS

PART 7. GENERAL GUIDELINES

230:35-5-39. Violations of the law

If members of the Precinct Election Board observe an election law being violated, it would be proper for the Inspector to inform the violator that his action is against the law. However, under no circumstances shall the Precinct Election Board be involved in enforcement of the violations. If violators persist in their actions, the Inspector immediately shall notify the Secretary of the County Election Board. Specifically, the following actions are prohibited by law:

- (1) **Electioneering.** The law prohibits any person from electioneering *within 300 feet of any ballot box while an election is in progress.* [26:7-108] The law also prohibits any person, except election officials and persons who are voting or waiting to vote, from being allowed *within 50 feet of any ballot box while an election is in progress.* [26:7-108] The law further prohibits the posting or exposing of any printed material, other than that material provided by the County Election Board *within 300 feet of any ballot box while an election is in progress.* [26:7-108]
- (2) **Disclosure of vote.** It is unlawful for a voter to disclose to any other person how he voted or to expose his ballot to any person within the election enclosure. [26:7-109]
- (3) **Intoxicating liquors.** It is unlawful to take *intoxicating liquors of any kind or quantity to within one-half mile of any polling place on election day.* [26:7-110] The law prohibits any person from being *within 300 feet of a polling place in an intoxicated condition on election day.* [26:7-110]
- (4) **Voting ballots issued.** *No person shall vote any ballot except such ballot issued to him by the Precinct Election Board, and each ballot cast must be voted without removing same from the polling place.* [26:7-111] *Any unauthorized person who knowingly removes a ballot from a polling place or who knowingly carries a ballot into a polling place shall be deemed guilty of a felony.* [26:16-102.1]
- (5) **Persons authorized inside election enclosure.** *At no time during the hours of voting shall any person, other than the election officials and other persons authorized by law, be allowed inside the election enclosure except for one registered voter in each voting booth and one other registered voter for each voting booth.* [26:7-112] However, a news reporter or photographer may enter the election enclosure for no more than five minutes. [26:7-112]

PART 29. VIOLATIONS OF THE LAW

230:35-5-144. Voting ballots issued

No person shall vote any ballot except such ballot issued to him by the Precinct Election Board, and each ballot cast must be voted without removing same from the polling place. [26:7-111] *Any unauthorized person who knowingly removes a ballot from a polling place or who knowingly carries a ballot into a polling place shall be deemed guilty of a felony.* [26:16-102.1]

[OAR Docket #10-1294; filed 11-10-10]

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

[OAR Docket #10-1343]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
317:2-1-2. [AMENDED]
317:2-1-5. [AMENDED]
317:2-1-6. [AMENDED]
317:2-1-7. [AMENDED]
317:2-1-13. [AMENDED]
(Reference APA WF # 10-45)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, Section 1011.9 of Title 56 of Oklahoma Statutes

DATES:

Adoption:
October 14, 2010

Approved by Governor:
November 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:

Superseded rules:
317:2-1-2. [AMENDED]
317:2-1-6. [AMENDED]

Gubernatorial approval:
July 20, 2010

Register Publication:
27 Ok Reg 2733

Docket number:
10-1144
(Reference APA WF # 10-31)

Superseded rules:
317:2-1-2. [AMENDED]

Gubernatorial approval:
August 13, 2010

Register Publication:
28 Ok Reg 7

Docket number:
10-1170
(Reference APA WF # 10-31)

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 appeals rules. Agency rules are revised regarding provider program integrity audits/reviews appeals to comply with Section 1011.9 of Title 56 of Oklahoma Statutes. These revisions allow for the recoupment of overpayments due to identified errors determined not to be fraudulent only after a provider has had the opportunity to exercise the right to an appeal that includes a hearing conducted by an administrative law judge appointed by the Oklahoma Attorney General. Rules also clarify that a provider has the right to participate in the hearing and to be represented by legal counsel. Additionally, rule revisions grant the ALJ jurisdiction over provider appeals related to the Oklahoma Electronic Health Records Incentive Payment Program. These emergency rule revisions will ensure compliance with Oklahoma state law.

ANALYSIS:
Agency rules are revised regarding provider program integrity audits/reviews appeals to comply with Section 1011.9 of Title 56 of Oklahoma Statutes. These revisions allow for the recoupment of overpayments due to identified errors determined not to be fraudulent only after a provider has had the opportunity to exercise the right to an appeal that includes a hearing

Emergency Adoptions

conducted by an administrative law judge appointed by the Oklahoma Attorney General. Rules also clarify that a provider has the right to participate in the hearing and to be represented by legal counsel.

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):

317:2-1-2. Appeals

(a) Member Process Overview.

(1) The appeals process allows a member to appeal a decision which adversely affects their rights. Examples are decisions involving medical services, prior authorizations for medical services, or discrimination complaints.

(2) In order to file an appeal, the member files a LD-1 form within 20 days of the triggering event. The triggering event occurs at the time when the Appellant (Appellant is the person who files a grievance) knew or should have known of such condition or circumstance for appeal.

(3) If the LD-1 form is not received within 20 days of the triggering event, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely. In the case of tax warrant intercept appeals, if the LD-1 form is not received within 30 days of written notice sent by OHCA according to Title 68 O.S. § 205.2, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely.

(4) If the LD-1 form is not completely filled out and necessary documentation not included, then the appeal will not be heard.

(5) The staff advises the Appellant that if there is a need for assistance in reading or completing the grievance form that arrangements will be made.

(6) Upon receipt of the member's appeal, a fair hearing before the Administrative Law Judge (ALJ) will be scheduled. The member will be notified in writing of the date and time for this procedure. The member must appear at this hearing and it is conducted according to ~~Section OAC 317:2-1-5~~. The ALJ's decision may be appealed to the ~~CEO-Chief Executive Officer of the OHCA~~, which is a record review at which the parties do not appear (~~Section OAC 317:2-1-13~~).

(7) Member appeals are to be ordinarily decided within 90 days from the date OHCA receives the member's timely request for a fair hearing unless the member waives this requirement. [Title 42 U.S.C. C.F.R. Section 431.244(f)]

(8) Tax warrant intercept appeals will be heard directly by the ALJ. A decision ~~will be~~ is normally rendered by the ALJ within 20 days of the hearing before the ALJ.

(b) Provider Process Overview.

(1) The proceedings as described in this Section contain the hearing process for those appeals filed by providers. These appeals encompass all subject matter cases contained in ~~OAC 317:2-1-2(c)(2)~~.

(2) All provider appeals are initially heard by the OHCA Administrative Law Judge under ~~OAC 317:2-1-2(c)(2)~~.

(A) The Appellant (Appellant is the provider who files a grievance) files an LD form requesting a grievance hearing within 20 days of the triggering event. The triggering event occurs at the time when the Appellant knew or should have known of such condition or circumstance for appeal. (LD-2 forms are for provider grievances and LD-3 forms are for nursing home wage enhancement grievances.)

(B) If the LD form is not received within 20 days of the triggering event, OHCA sends the Appellant a letter stating the appeal will not be heard because it is untimely.

(C) The staff advises the Appellant that if there is a need for assistance in reading or completing the grievance form that arrangements will be made.

(D) A decision will be rendered by the ALJ ordinarily within 45 days of the close of all evidence in the case.

(E) ~~The~~ Unless an exception is provided in 317:2-1-13, the Administrative Law Judge's decision is appealable to OHCA's CEO under ~~OAC 317:2-1-13~~.

(c) **ALJ jurisdiction.** The administrative law judge has jurisdiction of the following matters:

(1) Member Appeals:

(A) Discrimination complaints regarding the ~~Medicaid~~ SoonerCare program;

(B) Appeals which relate to the scope of services, covered services, complaints regarding service or care, enrollment, disenrollment, and reenrollment in the SoonerCare Program;

(C) Fee for Service appeals regarding the furnishing of services, including prior authorizations;

(D) Appeals which relate to the tax warrant intercept system through the Oklahoma Health Care Authority. Tax warrant intercept appeals will be heard directly by the ALJ. A decision will be rendered by the Administrative Law Judge within 20 days of the hearing before the ALJ;

(E) Complaints regarding the possible violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA); ~~and~~

(F) Proposed administrative sanction appeals pursuant to 317:35-13-7. Proposed administrative sanction appeals will be heard directly by the ALJ. A decision by the ALJ will ordinarily be rendered within 20 days of the hearing before the ALJ. This is the final and only appeals process for proposed administrative sanctions;

(G) Appeals which relate to eligibility determinations made by OHCA;

(H) Appeals of insureds participating in Insure Oklahoma which are authorized by 317:45-9-8(a); and

(2) Provider Appeals:

- (A) Whether Pre-admission Screening and Resident Review (PASRR) was completed as required by law;
- (B) Denial of request to disenroll member from provider's SoonerCare Choice panel;
- (C) Appeals by Long Term Care facilities for nonpayment of wage enhancements, determinations of overpayment or underpayment of wage enhancements, and administrative penalty determinations as a result of findings made under OAC 317:30-5-131.2(b)(5), (e)(8), and (e)(12);
- (D) Petitions for Rulemaking;
- ~~(E) Appeals of insureds participating in O-EPIC which are authorized by OAC 317:45-9-8(a);~~
- ~~(FE) Appeals to the decision made by the Business Contracts manager related to Purchasing as found at OAC 317:10-1-5 reports of supplier non-compliance to the Central Purchasing Division, Oklahoma Department of Central Services and other appeal rights granted by contract;~~
- ~~(GF) Drug rebate appeals;~~
- ~~(HG) Nursing home contracts which are terminated, denied, or non-renewed; and~~
- ~~(HI) Proposed administrative sanction appeals pursuant to OAC 317:35-13-7-317:30-3-19. Proposed administrative sanction appeals will be heard directly by the ALJ. A decision will normally be rendered by the ALJ within 20 days of the hearing before the ALJ. This is the final and only appeals process for proposed administrative sanctions;~~
- (I) Contract award appeals;
- (J) Provider appeals of OHCA audit findings pursuant to 317:2-1-7. This is the final and only appeals process for appeals of OHCA audits; and
- (K) Oklahoma Electronic Health Records Incentive program appeals related only to incentive payments, incentive payment amounts, provider eligibility determinations, and demonstration of adopting, implementing, and upgrading, and meaningful use eligibility for incentives.

317:2-1-5. Hearing procedures

~~Administrative Law Judge.~~

- ~~(4a) Hearings will be conducted in an informal manner without formal rules of evidence or procedure, except for hearings under 317:2-1-7.~~
- ~~(b2) No party is required to be represented by an attorney. Members may represent themselves or authorize another party to represent them. A person or entity desiring to represent a member must provide documentation of the consent of the member to be represented by that person or entity. An appeal will be rejected without documentation of representation. Individuals appearing for corporate entities will be deemed to be authorized to represent the corporation in a hearing.~~
- ~~(c3) The docket clerk will send the Appellant and any other necessary party notice which states the hearing location, date, and time.~~
- ~~(d4) The OHCA Administrative Law Judge or designee may:~~

- ~~(A1) Rule on any requests for extension of time;~~
- ~~(B2) Hold pre-hearing conferences to settle, simplify, or identify issues in a proceeding or to consider other matters that may end in the expeditious disposition of the proceeding;~~
- ~~(C3) Require the parties to state their positions concerning the various issues in the proceeding;~~
- ~~(D4) Require the parties to produce for examination those relevant witnesses and documents under their control;~~
- ~~(E5) Rule on motions and other procedural items;~~
- ~~(F6) Regulate the course of the hearing and conduct of the participants;~~
- ~~(G7) Establish time limits for the submission of motions or memoranda;~~
- ~~(H8) Impose appropriate sanctions against any person failing to obey an order of the ALJ or authorized under the rules in this Chapter which may include:

 - ~~(iA) Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence;~~
 - ~~(iiB) Excluding all testimony of an unresponsive or evasive witness; or~~
 - ~~(iiiC) Expelling the person from further participation in the hearing;~~~~
- ~~(I9) Take official notice of any material fact not appearing as evidence in the record, if the fact is among traditional matters of judicial notice;~~
- ~~(J10) Administer oaths or affirmations;~~
- ~~(K11) Determine the location of the hearing;~~
- ~~(L12) Allow either party to request that the hearing be recorded by a court reporter with costs to be borne by the requesting party. The original of such transcription, if ordered, will be given to the ALJ with a copy to be given to the requesting party;~~
- ~~(M13) Recess and reconvene the hearing;~~
- ~~(N14) Set and/or limit the time frame of the hearing;~~
- ~~(O15) Reconsider or rehear a matter for good cause shown; and~~
- ~~(P16) Send a copy of the decision by the ALJ to both parties outlining their rights to appeal the decision. The decision letter need not contain findings of fact or conclusions of law.~~
- ~~(5e) The burden of proof during the hearing will be upon the appellant and the ALJ will decide the case based upon a preponderance of evidence standard as defined by the Oklahoma Supreme Court. Parties who fail to appear at a hearing, after notification of said hearing date, will have their cases dismissed for failure to prosecute.~~
- ~~(6f) Parties may file preliminary motions in the case. Any such motions must be filed within 15 calendar days prior to the hearing date. Response to preliminary motions must be made within 7 calendar days of the date the motion is filed with OHCA. Preliminary motions will be ruled upon 3 days prior to the hearing date.~~
- ~~(7g) In any case in which a member requests a continuance, OHCA will not be prejudiced to complete the case within 90 days.~~

Emergency Adoptions

(h) An appeal, or an issue addressed by an appeal, may be dismissed if:

- (1) it is moot or there is insufficient evidence to support the allegations;
- (2) the appellant fails or refuses to appear for a scheduled meeting;
- (3) the appellant refuses to accept a settlement offer which affords the relief he or she could reasonably expect if he or she prevailed in the appeal; or
- (4) it is not timely filed or is not within the OHCA's jurisdiction or authority.

317:2-1-6. Other grievance procedures and processes

Other grievance procedures and processes include those set out in ~~OAC 317:2-1-7 (Program Integrity Audits/Reviews Appeals Provider Appeals of OHCA Audit Findings); OAC 317:2-1-8 (Nursing Home Provider Contract Appeals); OAC 317:2-1-9 (OHCA's Designated Agent's Appeal Process for QIO Services); OAC 317:2-1-10 (Drug Rebate Appeal Process); OAC 317:2-1-11 [Medicaid Drug Utilization Review Board (DUR) Appeal Process]; and OAC 317:2-1-12 (For Cause Provider Contract Suspension/Termination Appeals Process); and 317:2-1-14 (Contract Award Protest Process).~~

317:2-1-7. ~~Program Integrity Oklahoma Health Care Authority Audit~~

~~All Program Integrity Audits/Reviews appeals appeals related to audits and/or reviews resulting in overpayments are made to the State Medicaid Director heard by an OHCA Administrative Law Judge.~~

- ~~(1) If a provider disagrees with a decision of Program Integrity including statewide surveillance and utilization control program appeals an OHCA audit, which has determined that the provider has received an overpayment, the provider may appeal, within 20 days of the date of that decision to the State Medicaid Director by submitting an LD-2 form to OHCA's docket clerk.~~
- ~~(2) The appeal from the Program Integrity decision will be commenced by the receipt of a letter an LD-2 form from the appellant provider. The letter form must set out with specificity, the overpayment decision to which the provider objects along with the grounds for appeal. The letter provider should explain in detail, the factual and/or legal basis for disagreement with the allegedly erroneous decision. The letter should also include all All relevant exhibits the provider believes necessary to decide the appeal should be attached to the LD-2 form, including the following:-~~

- ~~(A) Citations for any statute or rule that the provider feels has been violated;~~
- ~~(B) The provider's name, address and telephone number;~~
- ~~(C) The name, address, and phone number of the provider's representative, if any; and~~
- ~~(D) The LD-2 must be signed by the provider or provider's representative.~~

(3) Upon receipt of the appeal by the docket clerk, the matter will be docketed for the next meeting of the Medical Advisory Committee (MAC). Any appeal received less than four weeks before a scheduled MAC meeting will be set for the following MAC meeting a hearing before an OHCA Administrative Law Judge.

(4) The appeal will be forwarded to the OHCA Legal Services Division by the docket clerk for distribution to the members of the subcommittee and for preparation of the OHCA's case. A subcommittee of the MAC will be formed and render a recommendation to the State Medicaid Director.

(5) At the discretion of the MAC, witnesses may be called and information may be solicited from any party by letter, telephonic communication, fax, or other means. The subcommittee may request that members of the OHCA be present during their consideration of the appeal. Members of the OHCA's Legal Division may be asked to answer legal questions regarding the appeal.

(6) The subcommittee will issue a recommendation regarding the appeal, in writing, within 30 days of the hearing. An exception to the 30 day rule will apply in cases where the subcommittee sets the case over until its next scheduled meeting in order to gather additional evidence. The written recommendation will list the members of the subcommittee who participated in the decision. In cases where an appeal must be continued, the subcommittee will issue a letter within 30 days of the initial hearing to inform the appellant of the continuance.

(7) The recommendation, after being formalized, will be sent to the docket clerk for review by the State Medicaid Director. The State Medicaid Director will ordinarily issue a decision regarding the appeal within 60 days of the docket clerk's receipt of the recommendation from the MAC. The decision will be issued to the appellant or his/her authorized agent.

(8) If the provider is dissatisfied with the Medicaid Director's decision, it may be appealed to the CEO under OAC 317:2-1-13.

(4) Any change in contact information during the course of the appeal should be immediately reported to the OHCA docket clerk.

(5) The OHCA, on its own initiative or upon written request of a party, may consolidate or join appeals if to do so will expedite the processing of the appeals and not adversely affect the interest of the parties.

(6) Within 45 days of the LD-2 being received and filed by the OHCA, any settlement discussions being held by the parties must be finalized. Settlement or mediation of audit disputes is encouraged and can begin at any time of the audit process between the provider and OHCA's Legal Division. If settlement is reached, the terms shall be set out in writing and signed by both parties and/or their representatives. Upon the finalization and signature of the settlement agreement, the appeal(s) shall be dismissed.

(7) Audit appeals which are not settled will commence with a prehearing conference before the assigned administrative law judge as follows:

(A) At the conference the parties shall clarify and isolate the legal and factual issues involved in the audit appeal.

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

(C) Prior to the prehearing conference each party shall file with the OHCA and provide a copy to the other party:

(i) A brief statement of his or her case, to include a list of stipulations and legal and factual issues to be heard;

(ii) A list of any witnesses who have direct knowledge of the facts surrounding the issues of the appeal and who are expected to be called at the hearing. The list shall include a brief statement of the testimony each witness will offer;

(iii) A list of any documents and exhibits and the original or a copy of each document or exhibit to be offered into evidence or presented at the hearing; and

(iv) Any requirements or requests for discovery.

(D) Administrative Law Judge shall:

(i) hear and rule on pending requests or motions;

(ii) rule on whether or not witnesses have knowledge of the facts at issue;

(iii) rule on whether or not documents and exhibits are relevant;

(iv) rule on whether or not discovery requests and other motions and requests are relevant;

(v) strike or deny witnesses, documents, exhibits, discovery requests and other requests or motions which are cumulative, not relevant or not material, used as a means of harassment, unduly burdensome or not timely filed; and

(vi) identify and rule on errors being appealed and issues to be heard at the administrative hearing.

(E) The prehearing conference shall be informal, structured by the administrative law judge and not open to the public. The administrative law judge shall record the prehearing conference by digital recording.

(i) Each party shall be notified of the date of the prehearing conference at least 10 calendar days prior to the scheduled prehearing conference.

(ii) Witnesses shall not appear or present testimony at the prehearing conference.

(F) A request for continuance of a prehearing conference can be made up to three days prior to the scheduled prehearing conference date. A lesser period of time may be permitted for good cause shown. The administrative judge shall rule on the request and in no case shall a combination of continuances exceed a total of 30 calendar days except for good cause shown.

(G) The administrative judge shall issue a prehearing conference statement setting out the witnesses, exhibits, documents and issues to be presented at the hearing; the hearing date; the decisions reviewed and made during the prehearing conference and any stipulations agreed to by the parties.

(8) The hearing shall be digitally recorded and closed to the public.

(9) The administrative law judge should attempt to make the final hearing decision within 180 days from the date of the prehearing conference. The final order shall be the entire record of the appeal. Pursuant to Administrative Procedures Act, the Order does not need to contain findings of fact or conclusions of law. The final order is the final decision and is not appealable to the CEO.

317:2-1-13. Appeal to the Chief Executive Officer

~~An appeal to the Chief Executive Officer (CEO) of the Oklahoma Health Care Authority includes:~~

~~(1) Within 20 days of decisions made pursuant to provider or Program Integrity Audits/Reviews appeals found at this Chapter, either party may appeal a decision to the CEO of the OHCA. Such appeal will be commenced by a letter or fax received by the CEO within 20 days of the receipt of the prior decision made by the ALJ or Medicaid Director. The appeal will concisely and fully explain the reasons for the request. No new evidence may be presented to the CEO. Evidence presented must be confined to the records below.~~

~~(2) Appeals to the CEO under member proceedings will be commenced by a letter received no later than 10 days of the receipt of the decision by the ALJ. Should the appellant request a transcription to prosecute its appeal to the CEO, the appellant will be required to execute a waiver relieving the OHCA from completing its fair process hearing within 90 days.~~

~~(3) For provider and Program Integrity Audits/Reviews proceedings, the CEO will ordinarily have 90 days from receipt of the appeal to render a written decision.~~

~~(4) For member proceedings, the CEO will ordinarily have 30 days from receipt of the appeal to render a written decision.~~

~~(5) The only appeal for proposed provider or member administrative sanctions is before the ALJ and the ALJ decision is not appealable to the CEO.~~

(a) The Oklahoma Health Care Authority offers approximately 40 different types of administrative appeals. Some of the appeals are appealable to the Chief Executive Officer, and some are not. The following appeals may be heard by the Chief Executive Officer:

(1) Appeals under 317:2-1-2(c)(1)(A) to (c)(1)(H), with the exception of Subsection (F);

(2) Appeals under 317:2-1-2(c)(2)(A) to (c)(2)(K), with the exceptions of Subsections (H) and (J); and

(3) Appeals under 317:2-1-8 and 317:2-1-10.

(b) Appeals to the Chief Executive Officer must be filed with the OHCA within twenty (20) days of the date of the Order, or decision by OHCA.

Emergency Adoptions

(c) No new evidence may be presented to the Chief Executive Officer.

(d) Appeals to the Chief Executive Officer under (a) of this Section may be filed by the provider, member, or agency. The Chief Executive Officer will ordinarily render decisions within sixty (60) days of the receipt of the appeal.

[OAR Docket #10-1343; filed 11-23-10]

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

[OAR Docket #10-1345]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-28. [NEW]
(Reference APA WF # 10-49)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; American Recovery and Reinvestment Act of 2009; CMS-0033-F; 45 CFR 170; Sections 4101(a) and 4102(a)(1) of HITECH Act

DATES:

Adoption:

October 14, 2010

Approved by Governor:

November 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:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to the general provider policies. These emergency rule revisions will bring the Agency into compliance with Federal regulations with respect to the Electronic Health Records Incentive Program, as required under the American Recovery and Reinvestment Act. The rules will enable a program to reduce administrative burdens on health care providers and SoonerCare members, thereby enhancing access to quality health care.

ANALYSIS:

OHCA policy is revised to create rules for the new Oklahoma Electronic Health Records Incentive Payment Program, which will begin January 2011 and is authorized by the American Recovery and Reinvestment Act of 2009. The rules provide a basic governing structure for the program, including the delineation of eligible providers and eligible hospitals, patient volume requirements, and incentive payment processes.

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 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-28. Electronic Health Records Incentive Program

(a) **Program.** The Oklahoma Electronic Health Records Incentive Program is authorized by the American Recovery and Reinvestment Act of 2009. Under this program, SoonerCare providers may qualify for incentive payments if they meet the eligibility guidelines in this section and demonstrate they are engaged in efforts to adopt, implement, upgrade, or meaningfully use certified electronic health records (EHR) technology. The EHR incentive program is governed by the policy in this section and the Electronic Health Records Program Final Rule issued by CMS in CMS-0033-F and 45 CFR 170. Providers should also use the EHR program manual as a reference for additional program details.

(b) **Eligible providers.** To qualify for incentive payments, a provider must be an "eligible professional" or an "eligible hospital." Providers who receive incentive payments must have an existing Provider Agreement with OHCA and at least one of their facilities must be located within the State of Oklahoma.

(1) **Eligible professionals.** An eligible professional is defined as a physician, a physician assistant practicing in a Federally Qualified Health Center (FQHC) or Rural Health Center (RHC) led by a physician assistant, a board certified pediatrician, a nurse practitioner, a certified nurse midwife, or a dentist. OHCA will determine eligibility based on the provider type, specialty associated with the provider in the MMIS system, and documentation.

(A) Eligible professionals may not be hospital-based, unless they practice predominantly at an FQHC or RHC as defined by the CMS Final Rule. A "hospital-based" professional furnishes ninety percent (90%) or more of their SoonerCare-covered professional services during the relevant EHR reporting period in a hospital setting, whether inpatient or Emergency Room, through the use of the facilities and equipment of the hospital.

(B) Eligible professionals may not participate in both the Medicaid and Medicare EHR incentive payment program during the same payment year.

(2) **Eligible hospitals.** Eligible hospitals are Children's Hospitals or Acute Care Hospitals, including Critical Access Hospitals and cancer hospitals. An Acute Care Hospital is defined as a health care facility where the average length of patient stay is twenty-five (25) days or fewer and that has a CMS certification number that has the last four digits in the series 0001-0879 and 1300-1399. A Children's Hospital is defined as a separately certified children's hospital, either freestanding or hospital-within-hospital, that predominantly treats individuals under 21 years of age and has a CMS certification number with the last 4 digits in the series 3300-3399.

Hospitals that do not meet either of the preceding definitions are not eligible for incentive payments.

(c) **Patient volume.** Eligible professionals and eligible hospitals must meet SoonerCare patient volume criteria to qualify for incentive payments. Patient volume criteria compliance will be verified by the OHCA through claims data and provider audits. When calculating SoonerCare patient volume, all SoonerCare populations may be counted. To calculate patient volume, the provider's total SoonerCare patient encounters in the specified reporting period must be divided by the provider's total patient encounters in the same reporting period.

(1) **Eligible professionals.** Eligible professionals must meet a 30% SoonerCare patient volume threshold over a continuous 90-day period in the preceding calendar year. The only exception is for pediatricians, as discussed in OAC 317:30-3-28(c)(5).

(2) **Eligible hospitals.** With the exception of children's hospitals, which have no patient volume requirement, eligible hospitals must meet a 10% SoonerCare patient volume threshold over a continuous 90-day period in the preceding calendar year.

(3) **FOHC or RHC patient volume.** Eligible professionals practicing predominantly in an FOHC or RHC may be evaluated according to their "needy individual" patient volume. To qualify as a "needy individual," patients must meet one of the following criteria:

(A) Received medical assistance from SoonerCare;

(B) Were furnished uncompensated care by the provider; or (C) Were furnished services at either no cost or reduced cost based on a sliding scale determined by the individual's ability to pay.

(4) **Clinics and group practices.** Clinics or group practices may calculate patient volume using the clinic's or group's SoonerCare patient volume under the following conditions:

(A) The clinic or group practice's patient volume is appropriate as a patient volume methodology calculation for the eligible professional;

(B) There is an auditable data source to support the patient volume determination;

(C) All eligible professionals in the clinic or group practice use the same methodology for the payment year;

(D) The clinic or group practice uses the entire practice's patient volume and does not limit patient volume in any way; and

(E) If an eligible professional works inside and outside of the clinic or practice, the patient volume calculation includes only those encounters associated with the clinic or group practice, and not the eligible professional's outside encounters.

(5) **Pediatricians.** Pediatricians may qualify for 2/3 incentive payments if their SoonerCare patient volume is 20-29%. A pediatrician is defined as a medical doctor who diagnoses, treats, examines, and prevents diseases and injuries in children and possesses a valid, unrestricted medical license and board certification in Pediatrics through either the American Board of Pediatrics (ABP) or

the American Osteopathic Board of Pediatrics (AOBP). To qualify as a pediatrician for the purpose of receiving a 2/3 payment under the incentive program, the provider must provide OHCA with a copy of their pediatric licenses and board certification.

(6) **Out of state patients.** For eligible professionals and eligible hospitals using out of state Medicaid recipients for patient volume requirement purposes, the provider must retain proof of the encounter for the out of state patient.

(d) **Attestation.** Eligible professionals and eligible hospitals must execute an amendment to their SoonerCare Provider Agreement to attest to meeting program criteria through the Electronic Provider Enrollment (EPE) system in order to qualify for incentive payments. Registration in the CMS EHR Incentive Payment Registration and Attestation system is a pre-requisite to EPE attestation.

(e) **Adoption/Implementation/Upgrade (A/I/U).** Eligible professionals or eligible hospitals in their first participation year under the Oklahoma EHR Incentive Payment Program may choose to attest to adopting, implementing, or upgrading certified EHR technology. Proof of A/I/U must be submitted to OHCA in order to receive payment.

(f) **Meaningful use.** Eligible professionals in their second through sixth participation year and eligible hospitals in their second through third participation year must attest to meaningful use of certified EHR technology. Eligible hospitals must attest to meaningful use if they are participating in both the Medicare and Oklahoma EHR Incentive Programs in their first participation year. The definition of "meaningful use" is outlined in, and determined by, the Electronic Health Records Program Final Rule CMS-0033-F.

(g) **Payment.** Eligible professionals may receive a maximum of \$63,750 in incentive payments over six years. Providers must begin their participation by 2016 to be eligible for payments. Payments will be made one time per year per provider and will be available through 2021. Eligible hospitals cannot initiate payments after 2016 and payment years must be consecutive after 2016.

(1) Eligible professionals and eligible hospitals must use a Taxpayer Identification Number (TIN) to assign a valid entity as the incentive payments recipient. Valid entities may be the individual provider or a group with which the provider is associated. The assigned payee must have a current Provider Agreement with OHCA.

(2) The provider is responsible for repayment of any identified overpayment. In the event OHCA determines monies have been paid inappropriately, OHCA will recoup the funds by reducing any future payments owed to the provider.

(h) **Administrative appeals.** Administrative appeals of decisions related to the Oklahoma Electronic Health Records Incentive Program will be handled under the procedures described in OAC 317:2-1-2(b).

[OAR Docket #10-1345; filed 11-23-10]

Emergency Adoptions

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

[OAR Docket #10-1344]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 5. Pharmacies

317:30-5-72.1. [AMENDED]

317:30-5-77. [AMENDED]

317:30-5-78. [AMENDED]

317:30-5-78.1. [AMENDED]

(Reference APA WF # 10-48)

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:

October 14, 2010

Approved by Governor:

November 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:

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 pharmacy program. Pharmacy rules are revised to reflect the change in pricing methodology for injectable drugs that are submitted through the pharmacy system. Policy revisions are needed to clarify payment methodology and reduce expenditures. This change ensures compliance with the Oklahoma Constitution, Article X, Section 23 which prohibits a state agency from spending more money than is allocated. As a result, when dispensed through a pharmacy, the provider will be reimbursed at a rate which is equivalent to the Medicare rate plus the standard dispensing fee. Additional revisions include the coverage of non-prescription EPSDT products offered through the pharmacy point of sale system and the exemption of I/T/U facilities from prior authorization requirements for brand name drugs. These emergency rule revisions will ensure compliance with Oklahoma state law and increase access to healthcare services for Oklahoma children, thereby reducing the amount of uncompensated care provided by health care providers.

ANALYSIS:

Pharmacy rules are revised to reflect the change in pricing methodology for injectable drugs that are submitted through the pharmacy system. Policy revisions are needed to clarify payment methodology and reduce expenditures. This change ensures compliance with the Oklahoma Constitution, Article X, Section 23 which prohibits a state agency from spending more money than is allocated. As a result, when dispensed through a pharmacy, the provider will be reimbursed at a rate which is equivalent to the Medicare rate plus the standard dispensing fee. Additional revisions include the coverage of non-prescription EPSDT products offered through the pharmacy point of sale system and the exemption of I/T/U facilities from prior authorization requirements for brand name drugs.

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 5. PHARMACIES

317:30-5-72.1. Drug benefit

OHCA administers and maintains an Open Formulary subject to the provisions of Title 42, United States Code (U.S.C.), Section 1396r-8. The OHCA covers a drug that has been approved by the Food and Drug Administration (FDA) and whose manufacturers have entered into a drug rebate agreement with the Centers for Medicare and Medicaid Services (CMS), subject to the following exclusions and limitations.

(1) The following drugs, classes of drugs, or their medical uses are excluded from coverage:

- (A) Agents used to promote fertility.
- (B) Agents primarily used to promote hair growth.
- (C) Agents used for cosmetic purposes.
- (D) Agents used primarily for the treatment of anorexia or weight gain. Drugs used primarily for the treatment of obesity, such as appetite suppressants are not covered. Drugs used primarily to increase weight are not covered unless otherwise specified.
- (E) Agents that are experimental or whose side effects make usage controversial.
- (F) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or designee.

(2) The drug categories listed in (A) through (E) of this paragraph are covered at the option of the state and are subject to restrictions and limitations. An updated list of products in each of these drug categories is included on the OHCA's public website.

(A) Agents used for the systematic relief of cough and colds. Antihistamines for allergies or antihistamine use associated with asthmatic conditions may be covered when medically necessary and prior authorized.

(B) Vitamins and Minerals. Vitamins and minerals are not covered except under the following conditions:

- (i) prenatal vitamins are covered for pregnant women up to age 50;
- (ii) fluoride preparations are covered for persons under 16 years of age or pregnant; ~~and~~
- (iii) vitamin D, metabolites, and analogs when used to treat end stage renal disease are covered;
- (iv) iron supplements may be covered for pregnant women if determined to be medically necessary; and
- (v) vitamin preparations may be covered for children less than 21 years of age when medically necessary and furnished pursuant to EPSDT protocol.

(C) Agents used for smoking cessation. A limited smoking cessation benefit is available.

(D) Coverage of non-prescription or over the counter drugs is limited to:

- (i) Insulin, PKU formula and amino acid bars, other certain nutritional formulas and bars for children diagnosed with certain rare metabolic conditions;
- (ii) certain smoking cessation products;
- (iii) family planning products, ~~and;~~
- (iv) OTC products may be covered if the particular product is both cost-effective and clinically appropriate; and
- (v) prescription and non-prescription products which do not meet the definition of outpatient covered drugs, but are determined to be medically necessary.

(E) Coverage of food supplements is limited to PKU formula and amino acid bars for members diagnosed with PKU, other certain nutritional formulas and bars for children diagnosed with certain rare metabolic conditions when medically necessary and prior authorized.

(3) All covered outpatient drugs are subject to prior authorization as provided in OAC 317-30-5-77.2 and 317:30-5-77.3.

(4) All covered drugs may be excluded or coverage limited if:

- (A) the prescribed use is not for a medically accepted indication as provided under 42 U.S.C. § 1396r-8; or
- (B) the drug is subject to such restriction pursuant to the rebate agreement between the manufacturer and CMS.

317:30-5-77. Brand necessary certification

(a) When a product is available in both a brand and generic form, a prior authorization is required before the branded product may be dispensed. The prescribing provider must certify the brand name drug product is medically necessary for the well being of the patient, otherwise a generic must be substituted for the name brand product.

- (1) The certification must be written in the physician's or other prescribing provider's handwriting.
- (2) Certification must be written directly on the prescription blank or on a separate sheet which is attached to the original prescription.
- (3) A standard phrase indicating the need for a specific brand is required. The OHCA recommends use of the phrase "Brand Necessary".
- (4) It is unacceptable to use a printed box on the prescription blank that could be checked by the physician to indicate brand necessary, or to use a hand-written statement that is transferred to a rubber stamp and then stamped onto the prescription blank.
- (5) If a physician phones a prescription to the pharmacy and indicates the need for a specific brand, the physician should be informed of the need for a handwritten certification. The pharmacy can either request that the certification document be given to the patient who then delivers it to the

pharmacy upon receipt of the prescription, or request the physician send the certification through the mail.

- (b) The Brand Necessary Certification applies to CMS Federal Upper Limit and State Maximum Allowable Cost (SMAC) products.
- (c) For certain narrow therapeutic index drugs, a prior authorization will not be required. The DUR Board will select and maintain the list of narrow therapeutic index drugs.
- (d) Indian Health Services, Tribal Programs, and Urban Indian Clinics (I/T/U) facilities are exempt from prior authorization requirements for brand name drugs.

317:30-5-78. Reimbursement

(a) **Reimbursement.** Reimbursement for pharmacy claims is based on the sum of an estimate of the ingredient cost, plus a dispensing fee.

(b) **Ingredient Cost.** Ingredient cost is estimated by one of the following methods:

(1) **Maximum Allowable Cost.**

(A) The State Maximum Allowable Cost (~~MAC~~) (SMAC) is established for certain products which have a Food and Drug Administration (FDA) approved generic equivalent. The ~~State MAC~~ SMAC will be calculated using prices from pharmaceutical wholesalers who supply these products to pharmacy providers in Oklahoma. Pharmacies may challenge a specific ~~product's MAC~~ product's SMAC price by providing invoices that reflect a net cost higher than the calculated ~~State MAC~~ SMAC price and by certifying that there is not another product available to them which is generically equivalent to the higher priced product.

(B) The Federal Upper Limit (FUL) is established by CMS in accordance with applicable federal laws and regulations.

(C) Injectable drugs which are dispensed by a retail pharmacy through the Vendor Drug Program shall be priced based on a formula equivalent to the Medicare allowed charge whether they are furnished through the pharmacy program or through the medical program.

(2) **The Estimated Acquisition Cost.** The Estimated Acquisition Cost (EAC) means the agency's best estimate of the price generally and currently paid by providers for a drug marketed or sold by a particular manufacturer or labeler. EAC is typically based on a benchmark published price plus or minus a percentage. The current benchmark price is the Average Wholesale Price (AWP) as provided by the OHCA's pricing resource. EAC is calculated as AWP minus 12%.

(c) **Maximum allowable dispensing fee.** The maximum allowable dispensing fee for prescribed medication is established by review of surveys. A recommendation is made by the ~~Rates and Standards Committee~~ State Plan Amendment Rate Committee and presented to the Oklahoma Health Care Authority Board for their approval. There may be more than one level or type of dispensing fee if approved by the OHCA Board and CMS. A contracted pharmacy agrees to participate

Emergency Adoptions

in any survey conducted by the OHCA with regard to dispensing fees. The pharmacy shall furnish all necessary information to determine the cost of dispensing drug products. Failure to participate may result in administrative sanctions by the OHCA which may include but are not limited to a reduction in the dispensing fee.

(d) **Payment Reimbursement for prescription claims.** ~~Payment for prescription claims will be: Prescription claims will be reimbursed using the lower of the following calculation methods:~~

- (1) the lower of estimated acquisition cost, Federal Upper Limit (FUL), or State Maximum Allowable Cost (SMAC) plus a dispensing fee, or
 - (2) usual and customary charge to the general public, ~~whichever is lower.~~ The pharmacy is responsible to determine its usual and customary charge to the general public. The OHCA may conduct periodic reviews within its audit guidelines to verify the pharmacy's usual and customary charge to the general public and the pharmacy agrees to make available to the OHCA's reviewers prescription and pricing records deemed necessary by the reviewers. The OHCA defines general public as the patient group accounting for the largest number of non-SoonerCare prescriptions from the individual pharmacy, but does not include patients who purchase or receive their prescriptions through other third-party payers. If a pharmacy offers discount prices to a portion of its customers (i.e. -10% discount to senior citizens), these lower prices would be excluded from the usual and customary calculations unless the patients receiving the favorable prices represent more than 50% of the pharmacy's prescription volume. The usual and customary charge will be a single price which includes both the product price and the dispensing fee. For routine usual and customary reviews, the pharmacy may provide prescription records for non-SoonerCare customers in a manner which does not identify the customer by name so long as the customer's identity may be determined later if a subsequent audit is initiated. The OHCA will provide the pharmacy notice of its intent to conduct a review of usual and customary charges at least ten days in advance of its planned date of review.
- (e) **Payment of Claims.** In order for an eligible provider to be paid for filling a prescription drug, the pharmacy must complete all of the following:
- (1) have an existing provider agreement with OHCA,
 - (2) submit the claim in a format acceptable to OHCA,
 - (3) have a prior authorization before filling the prescription, if a prior authorization is necessary,
 - (4) have a proper brand name certification for the drug, if necessary, and
 - (5) include the usual and customary charges to the general public as well as the estimated acquisition cost and dispensing fee.
- (f) **Claims.** Prescription reimbursement may be made only for individuals who are eligible for coverage at the time a prescription is filled. Member eligibility information may be

accessed by swiping a SoonerCare identification card through a commercial card swipe machine which is connected to the eligibility database or via the Point of Sale (POS) system when a prescription claim is submitted for payment. Persons who do not contract with commercial vendors can use the Member Eligibility Verification System (EVS) at no additional cost.

317:30-5-78.1. Special billing procedures

- (a) **Antihemophilic Factor (AHF) Products.** AHF products are sold by the amount of drug (International Units of AHF) in the container. For their products, regardless of the container size, the package size is always "1". Therefore, pricing assumes that the "package size" actually dispensed is the actual number of units dispensed. Examples: If 250 AHF units are dispensed and multiplied by a unit cost of \$.25, the allowable cost would be \$62.50. Metric Quantity is shown as 250; if 500 AHF units are dispensed and multiplied by a unit cost of \$.25, the allowable would be \$125.00. Metric Quantity is shown as 500.
- (b) **Compound and intravenous drugs.** Prescriptions claims for compound and Intravenous (IV) drugs are billed and reimbursed using the NDC number and quantity for each compensable ingredient in the compound or IV, up to 25 ingredients. Ingredients without an NDC number are not compensable. A dispensing fee as described in OAC 317:30-5-78(c) is added to the total ingredient cost.
- (c) **Co-Payment.** Pharmacies must pursue all third party resources before filing a claim with OHCA as set out in 42 CFR 433.139.
- (d) **Over-the-counter drugs.** Payment for covered over-the-counter medication is made according to the reimbursement methodology in OAC 317:30-5-78(d).
- (e) **Individuals eligible for Part B of Medicare.** Payment is made utilizing the SoonerCare allowable for comparable services. The appropriate Durable Medical Equipment Regional Carrier (DMERC) must be billed prior to billing OHCA for all Medicare compensable drugs. Part B crossover claims cannot be submitted through the pharmacy point of sale system and must be submitted using the CMS 1500 form or electronic equivalent.
- (f) **Claims for prescriptions which are not picked up.** A prescription for a member which has been submitted to and approved for payment by OHCA which has not been received by the member within 15 days of the date of service must be reversed. An electronic reversal will cause a refund to be generated to the agency. Claims may also be reversed using a manual process if electronic reversal is not possible. For the purpose of this Section, the date of service means the date the prescription was filled.
- (g) **Non-prescription products.** The coverage of non-prescription products that are determined to be medically necessary must be billed through the pharmacy point of sale system.

[OAR Docket #10-1344; filed 11-23-10]

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

[OAR Docket #10-1340]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Eligibility and Countable Income

Part 3. Non-Medical Eligibility Requirements

317:35-5-25. [AMENDED]

(Reference APA WF # 10-01)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Law 111-118, Section 8120 of the Department of Defense Appropriations Act, 2010

DATES:

Adoption:

October 14, 2010

Approved by Governor:

November 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:

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 eligibility guidelines. These emergency rule revisions will ensure OHCA policy is in compliance with current Federal law and provide continuous access to services for refugee members who depend on SoonerCare.

ANALYSIS:

OHCA eligibility rules are revised to comply with new Federal law that eliminates the five-year bar on SoonerCare services for Afghan and Iraqi special immigrants. Previously, Afghan and Iraqi special immigrants were eligible for SoonerCare services for eight months and then were required to wait five years before they became eligible again. New policy eliminates the five-year bar so Afghan and Iraqi special immigrants may continue to receive SoonerCare services after eight months.

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. ELIGIBILITY AND
COUNTABLE INCOME**

**PART 3. NON-MEDICAL ELIGIBILITY
REQUIREMENTS**

**317:35-5-25. Citizenship/alien status and identity
verification requirements**

(a) **Citizenship/alien status and identity verification requirements.** Verification of citizenship/alien status and identity are required for all adults and children approved for SoonerCare. An exception is individuals who are initially eligible for SoonerCare as deemed newborns; according to Section 1903(x) of the Social Security Act, they will not be required to further document citizenship or identity at any subsequent SoonerCare eligibility redetermination. They are considered to have provided satisfactory documentation of citizenship and identity by virtue of being born in the United States.

(1) The types of acceptable evidence that verify identity and citizenship include:

- (A) United States (U.S.) Passport;
- (B) Certificate of Naturalization issued by U.S. Citizenship & Immigration Services (USCIS) (Form N-550 or N-570);
- (C) Certificate of Citizenship issued by USCIS (Form N-560 or N-561);
- (D) Copy of the Medicare card or printout of a BENDEX or SDX screen showing receipt of Medicare benefits, Supplemental Security Income or disability benefits from the Social Security Administration; or
- (E) Tribal membership card or Certificate of Degree of Indian Blood (CDIB) card, with a photograph of the individual.

(2) The types of acceptable evidence that verify citizenship but require additional steps to obtain satisfactory evidence of identity are listed in subparagraphs (A) and (B). Subparagraph (A) lists the most reliable forms of verification and is to be used before using items listed in (B). Subparagraph (B) lists those verifications that are less reliable forms of verification and are used only when the items in (A) are not attainable.

(A) Most reliable forms of citizenship verification are:

- (i) A U.S. public Birth Certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (on or after 1/13/1941), Guam (on or after 4/10/1899), the U.S. Virgin Islands (on or after 1/17/1917), American Samoa, Swain's Island, or the Northern Mariana Islands after 11/4/1986;
- (ii) A Report of Birth Abroad of a U.S. citizen issued by the Department of Homeland Security or a Certification of birth issued by the State Department (Form FS-240, FS-545 or DS-1350);
- (iii) A U.S. Citizen ID Card (Form I-179 or I-197);
- (iv) A Northern Mariana Identification Card (Form I-873) (Issued by the INS to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before 11/3/1986);

Emergency Adoptions

- (v) An American Indian Card issued by the Department of Homeland Security with the classification code "KIC" (Form I-872);
 - (vi) A Final Adoption Decree showing the child's name and U. S. place of birth;
 - (vii) Evidence of U.S. Civil Service employment before 6/1/1976;
 - (viii) An Official U.S. Military Record of Service showing a U.S. place of birth (for example a DD-214);
 - (ix) Tribal membership card or Certificate of Degree of Indian Blood (CDIB) card, without a photograph of the individual, for Native Americans;
 - (x) Oklahoma Voter Registration Card; or
 - (xi) Other acceptable documentation as approved by OHCA.
- (B) Other less reliable forms of citizenship verification are:
- (i) An extract of a hospital record on hospital letterhead established at the time of the person's birth that was created five years before the initial application date and that indicates a U.S. place of birth. For children under 16 the evidence must have been created near the time of birth or five years before the date of application;
 - (ii) Life, health, or other insurance record showing a U.S. place of birth that was created at least five years before the initial application date and that indicates a U.S. place of birth;
 - (iii) Federal or State census record showing U.S. citizenship or a U.S. place of birth (generally for persons born 1900 through 1950). The census record must also show the applicant's/member's age; or
 - (iv) One of the following items that show a U.S. place of birth and was created at least five years before the application for SoonerCare. This evidence must be one of the following and show a U.S. place of birth:
 - (I) Seneca Indian tribal census record;
 - (II) Bureau of Indian Affairs tribal census records of the Navajo Indians;
 - (III) U.S. State Vital Statistics official notification of birth registration;
 - (IV) An amended U.S. public birth record that is amended more than five years after the person's birth; or
 - (V) Statement signed by the physician or midwife who was in attendance at the time of birth.
- (3) Acceptable evidence of identity that must accompany citizenship evidence listed in (A) and (B) of paragraph (2) of this subsection includes:
- (A) A driver's license issued by a U.S. state or territory with either a photograph of the individual or other identifying information such as name, age, sex, race, height, weight, or eye color;
 - (B) A school identification card with a photograph of the individual;
 - (C) An identification card issued by Federal, state, or local government with the same information included on driver's licenses;
 - (D) A U.S. military card or draft record;
 - (E) A U.S. military dependent's identification card;
 - (F) A Native American Tribal document including Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native Tribal document with a photograph of the individual or other personal identifying information;
 - (G) A U.S. Coast Guard Merchant Mariner card;
 - (H) A state court order placing a child in custody as reported by the OKDHS;
 - (I) For children under 16, school records may include nursery or daycare records;
 - (J) If none of the verification items on the list are available, an affidavit may be used for children under 16. An affidavit is only acceptable if it is signed under penalty of perjury by a parent or guardian stating the date and place of the birth of the child and ~~cannot be used if an affidavit for citizenship was provided.~~cannot be used if an affidavit for citizenship was provided.
- (b) **Reasonable opportunity to obtain citizenship verification.**
- (1) When the applicant/member is unable to obtain citizenship verification, a reasonable opportunity is afforded the applicant/member to obtain the evidence as well as assistance in doing so. A reasonable opportunity is afforded the applicant/member before taking action affecting the individual's eligibility for SoonerCare. The reasonable opportunity time frame usually consists of 60 days. In rare instances, the time frame may be extended to a period not to exceed an additional 60 days.
 - (2) The following methods of verification are the least reliable forms of verification and should only be used as a last resort:
 - (A) Institutional admission papers from a nursing facility, skilled care facility or other institution. Admission papers generally show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth;
 - (B) Medical (clinic, doctor, or hospital) record created at least five years before the initial application date that indicates a U.S. place of birth. For children under 16, the document must have been created near the time of birth. Medical records generally show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth. An immunization record is not considered a medical record for purposes of establishing U.S. citizenship;
 - (C) Written affidavit. Affidavits are only used in rare circumstances. If the verification requirements

need to be met through affidavits, the following rules apply:

- (i) There must be at least two affidavits by two individuals who have personal knowledge of the event(s) establishing the applicant's/member's claim of citizenship;
- (ii) At least one of the individuals making the affidavit cannot be related to the applicant/member;
- (iii) In order for the affidavit to be acceptable the persons making them must be able to provide proof of their own citizenship and identity;
- (iv) If the individual(s) making the affidavit has information which explains why evidence establishing the applicant's/member's claim or citizenship does not exist or cannot be readily obtained, the affidavit must contain this information as well;
- (v) The State must obtain a separate affidavit from the applicant/member or other knowledgeable individual (guardian or representative) explaining why the evidence does not exist or cannot be obtained; and
- (vi) The affidavits must be signed under penalty of perjury.

(c) **Alienage verification requirements.** SoonerCare services are provided as listed to the defined groups as indicated in this subsection if they meet all other factors of eligibility.

(1) **Eligible aliens (qualified aliens).** The groups listed in the following subparagraphs are eligible for the full range of SoonerCare services. A qualified alien is:

- (A) an alien who was admitted to the United States and has resided in the United States for a period greater than five years from the date of entry and who was:
 - (i) lawfully admitted for permanent residence under the Immigration and Nationality Act;
 - (ii) paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
 - (iii) granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980; or
 - (iv) a battered spouse, battered child, or parent or child of a battered person with a petition under 204(a)(1)(A) or (B) or 244(a)(3) of the Immigration and Naturalization Act.
- (B) an alien who was admitted to the United States and who was:
 - (i) granted asylum under Section 208 of such Act regardless of the date asylum is granted;
 - (ii) a refugee admitted to the United States under Section 207 of such Act regardless of the date admitted;
 - (iii) an alien with deportation withheld under Section 243(h) of such Act regardless of the date deportation was withheld;

- (iv) a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980, regardless of the date of entry;
 - (v) an alien who is a veteran as defined in 38 U.S.C. § 101, with a discharge characterized as an honorable discharge and not on the grounds of alienage;
 - (vi) an alien who is on active duty, other than active duty for training, in the Armed Forces of the United States;
 - (vii) the spouse or unmarried dependent child of an individual described in (C) of this paragraph;
 - (viii) a victim of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000; or
 - (ix) admitted as an Amerasian immigrant.
- (C) permanent residents who first entered the country under (B) of this paragraph and who later converted to lawful permanent residence status.

(2) **Other aliens lawfully admitted for permanent residence (non-qualified aliens).** Non-qualified aliens are those individuals who were admitted to the United States and who do not meet any of the definitions in paragraph (1) of this subsection. Non-qualified aliens are ineligible for SoonerCare for five years from the date of entry except that non-qualified aliens are eligible for emergency services only when the individual has a medical condition (including emergency labor and delivery) with acute symptoms which may result in placing his/her health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of body organ or part without immediate medical attention. The only exception is when a pregnant woman qualifies under the pregnancy related benefits covered under the Title XXI program because the newborn child will meet the citizenship requirement at birth.

(3) **Afghan Special Immigrants.** Afghan special immigrants, as defined in Public Law 110-161, who have special immigration status after December 26, 2007, are exempt from the five year period of ineligibility for SoonerCare services, ~~for a time limited period. The time limited exemption period for Afghan special immigrants is eight months from the date of entry into the United States as a special immigrant or the date of conversion to special immigrant status.~~ All other eligibility requirements must be met to qualify for SoonerCare services. If these individuals do not meet one of the categorical relationships, they may apply and be determined eligible for Refugee Medical Assistance. ~~Once the eight month exemption period ends, Afghan special immigrants are no longer exempt from the five year bar for SoonerCare services and are only eligible for services described in (2) of this subsection until the five year period ends.~~ Afghan special immigrants are considered lawful permanent residents.

(4) **Iraqi Special Immigrants.** Iraqi special immigrants, as defined in Public Law 110-181, who have special immigration status after January 28, 2008, are exempt from the five year period of ineligibility for SoonerCare

Emergency Adoptions

services, for a time limited period. The time limited exemption period for Iraqi special immigrants is eight months from the date of entry into the United States as a special immigrant or the date of conversion to special immigrant status. All other eligibility requirements must be met to qualify for SoonerCare services. If these individuals do not meet one of the categorical relationships, they may apply and be determined eligible for Refugee Medical Assistance. ~~Once the eight month exemption period ends, Iraqi special immigrants are no longer exempt from the five year bar for SoonerCare services and are only eligible for services described in (2) of this subsection until the five year period ends.~~ Iraqi special immigrants are considered lawful permanent residents.

(5) **Undocumented aliens.** Undocumented aliens who do not meet any of the definitions in (1)-(2) of this subsection are eligible for emergency services only when the individual has a medical condition (including emergency labor and delivery) with acute symptoms which may result in placing his/her health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of body organ or part without immediate medical attention. The only exception is when a pregnant woman qualifies under the pregnancy related benefits covered under the Title XXI program because the newborn child will meet the citizenship requirement at birth.

(6) **Ineligible aliens.**

(A) Ineligible aliens who do not fall into the categories in (1) and (2) of this subsection, yet have been lawfully admitted for temporary or specified periods of time include, but are not limited to: foreign students, visitors, foreign government representatives, crewmen, members of foreign media and temporary workers including agricultural contract workers. This group is ineligible for SoonerCare, including emergency services, because of the temporary nature of their admission status. The only exception is when a pregnant woman qualifies under the pregnancy related benefits covered under the Title XXI program because the newborn child will meet the citizenship requirement at birth.

(B) These individuals are generally issued Form I-94, Arrival Departure Record, on which an expiration date is entered. This form is not the same Form I-94 that is issued to persons who have been paroled into the United States. Parolees carry a Form I-94 that is titled "Arrival-Departure Record - Parole Edition". Two other forms that do not give the individual "Immigrant" status are Form I-186, Nonresident Alien Mexican Border Crossing Card, and Form SW-434, Mexican Border Visitors Permit.

(7) **Preauthorization.** Preauthorization is required for payment of emergency medical services rendered to non-qualified and undocumented aliens. Persons determined as having lawful alien status must have the status verified through Systematic Alien Verification for Entitlements (SAVE).

(d) **Alienage.** A decision regarding eligibility cannot be made until the eligibility condition of citizenship and alienage is determined.

(1) **Immigrants.** Aliens lawfully admitted for permanent residence in the United States are classified as immigrants by the BCIS. These are individuals who entered this country with the express intention of residing here permanently.

(2) **Parolees.** Under Section 212(d)(5) of the Immigration and Nationality Act, individuals can be paroled into the United States for an indefinite or temporary period at the discretion of the United States Attorney General. Individuals admitted as Parolees are considered to meet the "citizenship and alienage" requirement.

(3) **Refugees and Western Hemisphere aliens.** Under Section 203(a)(7) of the Immigration and Nationality Act, Refugees and Western Hemisphere aliens may be lawfully admitted to the United States if, because of persecution or fear of prosecution due to race, religion, or political opinion, they have fled from a Communist or Communist-dominated country or from the area of the Middle East; or if they are refugees from natural catastrophes. These entries meet the citizenship and alienage requirement. Western Hemisphere aliens will meet the citizenship requirement for SoonerCare if they can provide either of the documents in subparagraphs (A) and (B) of this paragraph as proof of their alien status.

(A) Form I-94 endorsed "Voluntary Departure Granted-Employment Authorized", or

(B) The following court-ordered notice sent by BCIS to each of those individuals permitted to remain in the United States: "Due to a Court Order in *Silva vs. Levi*, 76 C4268 entered by District Judge John F. Grady in the District Court for the Northern District of Illinois, we are taking no action on your case. This means that you are permitted to remain in the United States without threat of deportation or expulsion until further notice. Your employment in the United States is authorized".

(4) **Special provisions relating to Kickapoo Indians.** Kickapoo Indians migrating between Mexico and the United States carry Form I-94, Arrival-Departure Record (Parole Edition). If Form I-94 carries the statement that the Kickapoo is "paroled pursuant to Section 212(d)(5) of the Immigration and Nationality Act" or that the "Kickapoo status is pending clarification of status by Congress" regardless of whether such statements are preprinted or handwritten and regardless of a specific mention of the "treaty", they meet the "citizenship and alienage" requirement. All Kickapoo Indians paroled in the United States must renew their paroled status each year at any local Immigration Office. There are other Kickapoos who have entered the United States from Mexico who carry Form I-151 or Form I-551, Alien Registration Receipt Cards. These individuals have the same status as other individuals who have been issued Form I-151 or Form I-551 and therefore, meet the citizenship and alienage requirements. Still other Kickapoos are classified as Mexican Nationals

by the BCIS. They carry Form I-94, Arrival-Departure Record, which has been issued as a visiting visa and does not make mention of the treaty. Such form does not meet the "citizenship and alienage" requirements but provides only the ineligible alien status described in (c)(4)(b) of this Section.

(5) **American Indians born in Canada.** An American Indian born in Canada, who has maintained residence in the United States since entry, is considered to be lawfully admitted for permanent residence if he/she is of at least one-half American Indian blood. This does not include the non-citizen whose membership in an Indian tribe or family is created by adoption, unless such person is of at least 50 percent or more Indian blood. The methods of documentation are birth or baptismal certificate issued on a reservation, tribal records, letter from the Canadian Department of Indian Affairs, or school records.

(6) **Permanent non-immigrants.** Marshall Islanders and individuals from the Republic of Palau and the Federated States of Micronesia are classified as permanent non-immigrants by BCIS. They are eligible for emergency services only.

[OAR Docket #10-1340; filed 11-23-10]

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

[OAR Docket #10-1342]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 23. Living Choice Program

317:35-23-2. [AMENDED]

(Reference APA WF # 10-43)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 2403 of the Patient Protection and Affordable Care Act

DATES:

Adoption:

October 14, 2010

Approved by Governor:

November 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:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to change eligibility requirements for individuals transitioning from an institutional setting to home and community based setting through the Living Choice Program. The less stringent federal regulation will allow individuals to qualify for transition in a shorter period of time, therefore, decreasing the amount of time individuals spend in costly

institutional care. In a time of shrinking state revenues, the revisions will hasten the reduction in number of persons receiving costly institutional care and create a substantial savings over time by utilizing the less expensive home and community based method of care.

ANALYSIS:

Rules are revised to include new eligibility criteria for individuals transitioning from an institution to a home and community based setting through the Living Choice Demonstration program. Current rules require individuals to be institutionalized for a minimum of 6 months and be SoonerCare eligible for at least 30 days. Section 2403 of the Patient Protection and Affordable Care Act reduces the institutional stay requirement to a minimum of 90 consecutive days. Additionally, CMS has provided new guidance regarding the length of time required for Medicaid eligibility and has revised the eligibility time frame from 30 days to 1 day.

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 23. LIVING CHOICE PROGRAM

317:35-23-2. Eligibility criteria

(a) Adults with disabilities or long-term illnesses, members with mental retardation and members with physical disabilities are eligible to transition into the community through the Living Choice program if they meet all of the criteria in paragraphs (1) through (6) (7) of this subsection.

(1) He/she must be at least 19 years of age.

(2) He/she must reside in an institution (nursing facility or public ICF/MR) for at least ~~six months~~ 90 consecutive days prior to the proposed transition date. If any portion of the 90 days includes time in a skilled nursing facility, those days cannot be counted toward the 90 day requirement, if the member received Medicare post-hospital extended care rehabilitative services.

(3) He/she must have at least one ~~month~~ day of ~~SoonerCare~~ Medicaid paid long-term care services prior to transition.

(4) If transitioning from an out of state institution, he/she must be SoonerCare eligible.

(4) He/she requires at least the same level of care that necessitated admission to the institution.

(5) He/she must reside in a qualified residence after leaving the institution. A qualified residence is defined in (A) through (C) of this paragraph.

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with a locking entrance/exit, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than four unrelated individuals reside.

Emergency Adoptions

(67) His/her needs can be met by the Living Choice program while living in the community.

[OAR Docket #10-1342; filed 11-23-10]

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

[OAR Docket #10-1341]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Insure Oklahoma/O-Epic Carriers

317:45-3-3. [NEW]

Subchapter 5. Insure Oklahoma/O-Epic Qualified Health Plans

317:45-5-3. [NEW]

(Reference APA WF # 10-33)

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:

October 14, 2010

Approved by Governor:

November 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:

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 Insure Oklahoma program. Insure Oklahoma rules are revised to provide clarification in regards to carrier and health plan rate structure requirements. Carriers and health plans must meet OHCA's system specifications for all rate structure tiers and requirements. The OHCA must be able to recreate premium invoice amounts for all approved Insure Oklahoma members. If a carrier and/or health plan can not accommodate OHCA's system specifications for all rate structure tiers and requirements, the carrier and/or health plan will not be allowed to participate in the Insure Oklahoma program. Carrier and/or health plan rate structure requirements include all rate tiers and age-up methodologies. These emergency rule revisions will ensure that the Oklahoma Health Care Authority can continue to meet the needs of uninsured Oklahomans, while remaining in compliance with all federal and state rules and guidelines.

ANALYSIS:

Insure Oklahoma rules are revised to provide clarification in regard to carrier and health plan rate structure requirements. Carriers and health plans must meet OHCA's system specifications for all rate structure tiers and requirements. The OHCA must be able to recreate premium invoice amounts for all approved Insure Oklahoma members. If a carrier and/or health plan can not accommodate OHCA's system specifications for all rate structure tiers and requirements, the carrier and/or health plan will not be allowed to participate in the Insure Oklahoma program. Carrier and/or health plan rate structure requirements include all rate tiers and age-up methodologies.

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 3. INSURE OKLAHOMA/O-EPIC CARRIERS

317:45-3-3. Carrier rate structure requirements

Carriers must meet OHCA's system specifications for all rate structure tiers and requirements. The OHCA must be able to recreate premium invoice amounts for all approved Insure Oklahoma members. If a carrier can not accommodate OHCA's system specifications for all rate structure tiers and requirements, the carrier will not be allowed to participate in the Insure Oklahoma program and all health plans submitted by the carrier for participation in the Insure Oklahoma program as a qualified health plan will not be considered. Carrier rate structure requirements include all rate tiers and age-up methodologies.

SUBCHAPTER 5. INSURE OKLAHOMA/O-EPIC QUALIFIED HEALTH PLANS

317:45-5-3. Health plan rate structure requirements

Health plans must meet OHCA's system specifications for all rate structure tiers and requirements. The OHCA must be able to recreate premium invoice amounts for all approved Insure Oklahoma members. If a health plan can not accommodate OHCA's system specifications for all rate structure tiers and requirements, the health plan will not be allowed to participate in the Insure Oklahoma program. Health plan rate structure requirements include all rate tiers and age-up methodologies.

[OAR Docket #10-1341; filed 11-23-10]

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

[OAR Docket #10-1298]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions

340:5-1-5 through 340:5-1-6 [AMENDED]

Subchapter 5. Investigation of Adult Protective Services Referrals

340:5-5-8 [AMENDED]

(Reference APA WF 10-11)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and 43A O.S. §§ 10-110 (SB 1601) and 10-110.1 (HB 2776).

DATES:

Adoption:

September 28, 2010

Approved by Governor:

November 3, 2010

Effective:

Immediately upon Governor's approval or November 1, 2010, whichever is later.

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 to comply with Senate Bill (SB) 1601 effective July 1, 2010 and House Bill (HB) 2776 effective November 1, 2010.

ANALYSIS:

The proposed revisions to Subchapter 1 of Chapter 5 amend the rules to: (1) add language to comply with new statute, Section 10-110.1 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-110.1), regarding the release of certain information to the public about an individual charged or indicted with committing a crime resulting in death or near death of a vulnerable adult; and (2) add the definition of near death.

The Subchapter 5 of Chapter 5 proposed revisions add language clarifying that investigative records are not expunged except by court order in accordance with 43A O.S. § 10-110.

340:5-1-5 is revised to add language regarding the release of certain information to the public regarding an individual charged or indicted with committing a crime resulting in the death or near death of a vulnerable adult.

340:5-1-6 is revised to add the term near death as a definition.

340:5-5-8 is revised to add language that investigative records are not expunged except by court order.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2010 WHICHEVER IS LATER:

SUBCHAPTER 1. GENERAL PROVISIONS

340:5-1-5. Confidentiality

(a) All records, working papers, and reports related to an Adult Protective Services (APS) investigation are confidential under ~~Section~~ Sections 10-110 and 10-110.1 of Title 43A of the Oklahoma Statutes (43A O.S. §§ 10-110 and 10-110.1) and may be disclosed only by order of the court except under the circumstances described in (b) through (eg) of this Section. Representatives of the general public, news media, or agencies not meeting one of the exceptions in (c) of this Section who request details on a specific case may be referred to the county director, area director, Family Support Services Division (FSSD) APS Unit staff, or the Oklahoma Department of Human Services (OKDHS) Office of Communications for a detailed explanation of OKDHS confidentiality rules.

(b) When consulting persons knowledgeable of the circumstances of an alleged victim of abuse, neglect, or exploitation,

or when making other contacts as part of the investigation or service planning process, the APS specialist may disclose information necessary to ensure that the vulnerable adult is protected and the vulnerable adult's needs are met.

(c) Certain persons acting in an official capacity with regard to the vulnerable adult may review or receive information from the entire case record, including:

- (1) a district attorney or employees of the district attorney's office;
- (2) the attorney representing the person who is the subject of an involuntary services action;
- (3) the attorney for the Oklahoma Disability Law Center, when involved in representing the vulnerable adult;
- (4) staff of:
 - (A) an Oklahoma law enforcement agency;
 - (B) a law enforcement agency of another state;
 - (C) a state or local Medical Examiner's Office;
 - (D) a law enforcement agency of a federally recognized tribe in Oklahoma; or
 - (E) a federal law enforcement agency;
- (5) staff of another state's APS program;
- (6) physical or mental health care professionals involved in the evaluation or treatment of the vulnerable adult; and
- (7) OKDHS staff who use the information in carrying out their own responsibilities.

(d) Any agency or person authorized by OKDHS to provide services to a vulnerable adult may receive a summary of information necessary to secure or provide appropriate care for the vulnerable adult.

(e) The vulnerable adult's caretaker, legal guardian, and next of kin may receive summaries of information from an APS case record.

(f) Some information from APS records may be released to employees or contractors of the State for research purposes, upon application to and approval by the FSSD APS Unit. While local OKDHS offices may release statistical information, no specific case information is released for research purposes unless approval is received from the FSSD APS Unit.

(g) In accordance with 43A O.S. § 10-110.1, when the person responsible for the care of a vulnerable adult has been charged by information or indicted with committing a crime resulting in the death or near death of a vulnerable adult, there is a presumption that it is in the best interest of the public to disclose certain information.

(gh) If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the disclosed health information.

340:5-1-6. Definitions

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

"**Abandonment**" means the withdrawal of support or the act of deserting a vulnerable adult by a caretaker or other person responsible for the vulnerable adult's care.

"**Abuse**" means causing or permitting the:

Emergency Adoptions

(A) infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish; or

(B) deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult.

"Activities of daily living (ADLs)" means basic self-care activities such as toileting, transfer, feeding, bathing, and dressing.

"Adult" means a person 18 years of age or older.

"Alleged victim" means a vulnerable adult who is suspected of being a victim of maltreatment.

"APS specialist" means an Oklahoma Department of Human Services (OKDHS) worker who has successfully completed Adult Protective Services (APS) New Worker Academy or is working under the oversight of a more experienced APS specialist.

"APS specialist III" means the lead APS specialist who mentors and may be designated to act for the APS specialist IV.

"APS specialist IV" means any OKDHS staff assigned or designated to act in an APS supervisory capacity.

"Caretaker" means a person who is responsible for the care of or financial management for a vulnerable adult as a result of family relationship or has assumed responsibility for care of a vulnerable adult voluntarily, by contract, or by friendship; or who serves as a legally appointed guardian, limited guardian, or conservator.

"Emergency" means a situation in which a vulnerable adult is likely to suffer death or serious physical harm without immediate intervention.

"Evidence" means all documentation, photographs, interviews, observations, objects, and other information collected, observed, or otherwise obtained during the course of an investigation.

"Executive function" means the brain's ability to absorb information, interpret this information, and make decisions based upon this information.

"Exploitation" means unjust or improper use of the person or resources of a vulnerable adult for the profit or advantage of another person through undue influence, coercion, harassment, duress, deception, false representation, or false pretense.

"Financial neglect" means repeated instances by a caretaker or other person who has assumed the role of financial management of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including but not limited to:

(A) squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult;

(B) refusing to pay for necessities or utilities in a timely manner; or

(C) providing substandard care to a vulnerable adult despite the availability of adequate financial resources.

"Guardian" means one of the types of guardianship specified in the Oklahoma Guardianship and Conservatorship Act, Title 30 of the Oklahoma Statutes.

(A) **General guardian.** A general guardian is a person appointed by the court to serve as the guardian of an incapacitated person to ensure that the essential requirements for the health and safety of the person are met, to manage the estate of the person, or both.

(B) **Limited guardian.** A limited guardian is a person appointed by the court to serve as the guardian of a partially incapacitated person and is authorized by the court to exercise only certain powers of a guardian over the person, or estate or financial resources of the person, or both.

(C) **Special guardian.** A special guardian is a person appointed by the court to exercise certain specified powers to alleviate a situation in which there is a threat of serious impairment to the health or safety of an incapacitated or partially incapacitated person, or a situation in which the financial resources of the person will be seriously damaged or dissipated unless immediate action is taken.

"Incapacitated adult" means a vulnerable adult whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that the person lacks the capacity to manage his or her financial resources or to meet essential requirements for the person's mental or physical health or safety without assistance.

"Indecent exposure" means forcing or requiring a vulnerable adult to:

(A) look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult; or

(B) touch or feel the body or private parts of another person.

"Information and Referral (I & R)" means a report that has been screened by the APS specialist IV and does not contain an alleged vulnerable adult and at least one allegation of maltreatment.

"Instrumental activities of daily living (IADLs)" means abilities necessary for an adult to function independently in the community, such as preparing meals, using the telephone, driving or arranging for transportation, shopping, and handling finances.

"Mandatory reporter" means any person who has reasonable cause to believe someone is suffering from abuse, neglect, or exploitation.

"Maltreatment" means abuse, neglect, self-neglect, financial exploitation, sexual exploitation, financial neglect, abandonment, or verbal abuse.

"Near death" means the vulnerable adult is in serious or critical condition, as certified by a physician, as a result of abuse or neglect.

"Neglect" means:

(A) failure to provide protection for a vulnerable adult who is unable to protect his or her own interest;

(B) failure to provide adequate shelter, nutrition, health care, or clothing for a vulnerable adult; or

(C) negligent acts or omissions that result in harm or unreasonable risk of harm to a vulnerable adult through action or inaction, or lack of supervision by a caretaker providing direct services.

"Power of attorney" means authority granted by a legal document authorizing a person or other entity to act for the principal, subject to the extent of the power authorized. The affidavit may be durable. If it is durable, the power of attorney has been filed at the county court house and becomes effective when the principal loses decision making abilities as defined by the document and instructions of the principal. The power is revoked upon:

- (A) written revocation of the principal;
- (B) incapacity of the principal unless it is a durable power of attorney;
- (C) death of the principal;
- (D) a termination date if specified in the document;
- (E) order of the court; or
- (F) the appointment of a guardian, in most cases.

"Referral" means a report that has been screened by the APS specialist IV and assigned for investigation.

"Report" means any allegation of maltreatment that is received by OKDHS that has not yet been screened or assigned for investigation.

"Self-neglect" means neglect brought about by a vulnerable adult's own actions or inactions which causes the vulnerable adult to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence, or incapacity.

"Services which are necessary to aid an individual to meet essential requirements for mental or physical health and safety" means services which include, but are not limited to the:

- (A) identification of adults in need of protective services;
- (B) provision of medical care for physical or mental health needs; and
- (C) provision of assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical maltreatment, guardianship referral, outreach, and transportation necessary to secure any of such needs. This excludes taking the adult into physical custody without the adult's consent except through proper procedures for the provision of involuntary services.

"Sexual abuse" means:

- (A) oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult with any other object by a caretaker or other person providing services to the vulnerable adult;

(B) for the purpose of sexual gratification, the touching, feeling, or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult; or

(C) indecent exposure by a caretaker or other person providing services to the vulnerable adult.

"Sexual exploitation" means and includes, but is not limited to, a caretaker causing, allowing, permitting, or encouraging a vulnerable adult to engage in prostitution or in lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult as those acts are defined by Oklahoma law.

"Substantiated" means the greater weight of the evidence collected during an APS investigation determines that maltreatment occurred and the alleged victim meets the definition of a vulnerable adult.

"Temporary guardian" means a person or other entity appointed by the court under Title 43A of the Oklahoma Statutes with authority only to consent on behalf of an incapacitated adult to the provision of protective services determined necessary to remove conditions creating an emergency need and other services approved by the court. A temporary guardian serves in that capacity only until the expiration of the order appointing him or her.

"Undue influence" means the substitution of one person's will for the true desires of another.

"Unsubstantiated" means evidence found during an APS investigation was insufficient to determine maltreatment occurred.

"Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions, or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame, or degradation.

"Vulnerable adult" means an adult who, because of physical or mental disability or other impairment, may be subject to maltreatment and is substantially impaired in his or her ability to independently:

- (A) provide adequately for his or her own care or custody;
- (B) manage his or her property and financial affairs effectively;
- (C) meet essential requirements for mental or physical health or safety; or
- (D) protect himself or herself from maltreatment without assistance. This determination is not made based on a person's eligibility for disability benefits from any source or on the impairment being permanent, but solely on the adult's reported physical or mental condition at the time an APS report is made and the APS specialist's assessment of that condition during investigation.

SUBCHAPTER 5. INVESTIGATION OF ADULT PROTECTIVE SERVICES REFERRALS

Emergency Adoptions

340:5-5-8. Case destruction

(a) The destruction of the Adult Protective Services (APS) paper files is done in accordance with the rules set by Archives and Records.

(b) Records of investigations conducted pursuant to Section 10-110 of the Oklahoma Statutes, known as "The Protective Services for Vulnerable Adults Act," is not expunged except by court order.

[OAR Docket #10-1298; filed 11-16-10]

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

[OAR Docket #10-1307]

RULEMAKING ACTION:

EMERGENCY adoption.

RULES:

- Subchapter 1. Administration and organization [NEW]
- 435:70-1-1. Purpose [NEW]
- 435:70-1-2. Interpretation of rules and regulations [NEW]
- 435:70-1-3. Definitions [NEW]
- 435:70-1-4. Therapeutic Recreation Committee - terms of members - removal from Committee [NEW]
- 435:70-1-5. Method of operations - Committee meetings - quorum - advise Board [NEW]
- Subchapter 3. Application for licensure [NEW]
- 435:70-3-1. License required [NEW]
- 435:70-3-2. Qualifications for licensure [NEW]
- 435:70-3-3. Application for licensure/renewal of license - procedures [NEW]
- 435:70-3-4. Required documentation [NEW]
- 435:70-3-5. Temporary licenses - Supervision [NEW]
- 435:70-3-6. Licensure by endorsement [NEW]
- Subchapter 5. Biennial renewal [NEW]
- 435:70-5-1. Requirements for renewal of license [NEW]
- 435:70-5-2. Renewal procedure [NEW]
- 435:70-5-3. Late renewal [NEW]
- 435:70-5-4. Continuing education [NEW]
- 435:70-5-5. Approval of continuing education [NEW]
- 435:70-5-6. Methods for obtaining continuing education [NEW]
- Subchapter 7. Regulation of practice [NEW]
- 435:70-7-1. Supervision [NEW]
- 435:70-7-2. Referrals medically-related conditions [NEW]
- 435:70-7-3. Grounds for disciplinary action [NEW]

AUTHORITY:

State Board of Medical Licensure and Supervision, 59 O.S., § 540.5

DATES:

Adoption:

September 16, 2010

Approved by Governor:

November 3, 2010

Effective:

Immediately upon Governor's approval or November 1, 2010, whichever is later

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:

The proposed emergency rules are necessary in order to implement the provisions of Senate Bill 546, the Therapeutic Recreation Practice Act, which becomes effective November 1, 2010.

ANALYSIS:

These new rules will aid in implementing Title 59 O.S. §§ 540 et seq., which requires licensure of Therapeutic Recreation Specialists. The rules set out procedures for licensure, re-licensure and regulation of Therapeutic Recreation Specialists.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 405-962-1400, ext. 122

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253 (D), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2010, WHICHEVER IS LATER:

SUBCHAPTER 1. ADMINISTRATION AND ORGANIZATION

435:70-1-1. Purpose

The rules of this Chapter have been adopted to assist in the implementation and enforcement of the Oklahoma Therapeutic Recreation Practice Act.

435:70-1-2. Interpretation of rules and regulations

If any section, sentence, clause, or phrase of this Chapter shall be held, for any reason, to be inoperative or unconstitutional, void, or invalid, the validity of the remaining portion of the rules shall not be affected thereby, it being the intention of the Oklahoma State Board of Medical Licensure and Supervision in adopting the rules that no portion or provision herein shall become inoperative or fail by reasons of the unconstitutionality or invalidity of any portion or provision, and the Oklahoma State Board of Medical Licensure and Supervision does hereby declare it would have severally passed and adopted the provisions contained in this Chapter separately and apart one from another.

435:70-1-3. 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 Therapeutic Recreation Practice Act.

"Board" means the State Board of Medical Licensure and Supervision.

"Committee" means the Therapeutic Recreation Committee.

"CTRS" means a person who is credentialed by the National Council for Therapeutic Recreation Certification (NCTRC).

"CTRS/L" means a person licensed to practice Therapeutic Recreation who maintains the NCTRC credential.

"General supervision" means the responsible supervision and control by the supervising Licensed Therapeutic Recreation Specialist. The supervising TRS is regularly and routinely on-site and, when not on-site, the supervising TRS

is on call and readily available physically or through direct telecommunication for consultation.

"NCTRC" means the National Council for Therapeutic Recreation Certification.

"On-site supervision" or "Direct supervision" means the supervising TRS is immediately available to the person being supervised and maintains continued involvement in appropriate aspects of each treatment session.

"Therapeutic recreation assistant" means a person who provides therapeutic recreation services under the direct supervision of a licensed therapeutic recreation specialist. Such an individual may not conduct assessments and/or develop treatment plans.

"Licensed therapeutic recreation specialist" or "TRS" or "TRS/L" means a person licensed to practice therapeutic recreation in the State of Oklahoma.

"Therapeutic recreation" or "recreation therapy" means the specialized application of recreation to assist with the treatment and/or maintenance of the health status, functional abilities, recreational and leisure activities and ultimately quality of life for individuals hospitalized and/or receiving treatment for various diagnoses and individuals with disabilities.

(A) For purposes of accomplishing therapeutic recreation goals, therapeutic recreation may include:

- (i) remediating or restoring an individual's participation levels in recreational and leisure activities that are limited due to impairment in physical, cognitive, social or emotional abilities,
- (ii) analyzing and evaluating recreational activities to determine the physical, social, and programmatic elements necessary for involvement and modifying those elements to promote full participation and maximization of functional independence in recreational and leisure activities, and
- (iii) using recreational modalities in designed intervention strategies to maximize physical, cognitive, social, or emotional abilities to promote participation in recreational and leisure activities.

(B) For purposes of accomplishing therapeutic recreation goals, therapeutic recreation services include, but are not limited to:

- (i) conducting an individualized assessment for the purpose of collecting systematic, comprehensive, and accurate data necessary to determine the course of action and subsequent individualized treatment plan,
- (ii) planning and developing the individualized therapeutic recreation treatment plan that identifies an individual's goals, objectives, and potential treatment intervention strategies for recreational and leisure activities,
- (iii) implementing the individualized therapeutic recreation treatment plan that is consistent with the overall treatment program.

(iv) systematically evaluating and comparing the individual's response to the individualized therapeutic recreation treatment plan and suggesting modifications as appropriate,

(v) developing a discharge plan in collaboration with the individual, the individual's family, treatment team, and other identified support networks where appropriate,

(vi) identifying and training in the use of adaptive recreational equipment,

(vii) identifying, providing, and educating individuals to use recreational and leisure resources that support a healthy, active and engaged life,

(viii) minimizing the impact of environmental constraints as a barrier to participation in recreational and leisure activities,

(ix) collaborating with and educating the individual, family, caregiver, and others to foster an environment that is responsive to the recreational and leisure needs of the individual, and

(x) consulting with groups, programs, organizations, or communities to improve physical, social, and programmatic accessibility in recreational and leisure activities.

435:70-1-4. Therapeutic Recreation Committee - terms of members - removal from Committee

(a) There is hereby established the Therapeutic Recreation Committee to assist the State Board of Medical Licensure and Supervision in conducting examinations for applicants and to advise the Board on all matters pertaining to the licensure, education, and continuing education of therapeutic recreation specialists and the practice of therapeutic recreation or recreation therapy.

(b) The Therapeutic Recreation Committee shall consist of five (5) members who shall be appointed by the State Board of Medical Licensure and Supervision as follows:

(1) three members shall, upon initial appointment, be qualified persons who have been actively practicing therapeutic recreation in this state for at least three (3) years, provided, their successors shall be licensed therapeutic recreation specialists, and

(2) two members shall be lay persons,

(3) The professional members of the Committee shall be appointed for staggered terms of one (1), two (2) and three (3) years, respectively. Terms of office of each appointed member shall expire July 1 of that year in which they expire regardless of the calendar date when such appointments were made. Subsequent appointments shall be made for a term of three (3) years or until successors are appointed and qualified.

(4) The lay members shall be appointed for staggered terms of office which will expire July 1, 2010, and July 1, 2011. Thereafter, members appointed to these positions shall serve for terms of three (3) years or until successors are appointed and qualified.

Emergency Adoptions

- (5) Vacancies shall be filled by the Board in the same manner as the original appointment.
- (c) Members of the Committee shall be reimbursed for all actual and necessary expenses incurred in the performance of duties required by the Therapeutic Recreation Practice Act in accordance with the provisions of the State Travel Reimbursement Act.
- (d) Upon expiration of a member's term of office, the appointing authority for that member shall appoint a successor pursuant to the provisions of this section. Vacancies on the committee shall be filled in like manner for the balance of an expired term. No member shall serve more than three (3) consecutive terms. Each member shall serve until a successor is appointed and qualified.
- (e) The Board may remove any member from the Committee for neglect of any duty required by law, for failure to attend at least 50% of the regularly scheduled meetings in a calendar year, for incompetency, or for unethical or dishonorable conduct.
- (f) The Committee shall have the power and duty to:
- (1) Advise the Board on all matters pertaining to the licensure, education, and continuing education requirements for and practice of therapeutic recreation or recreation therapy in this state; and
 - (2) Assist and advise the Board in all hearings involving therapeutic recreation specialists who are deemed to be in violation of the Therapeutic Recreation Practice Act.

435:70-1-5. Method of operations - Committee meetings - quorum - advise Board

- (a) The Committee shall meet at least quarterly. At the initial meeting of the Committee, members shall elect a chair. Three members of the Committee shall constitute a quorum for the purpose of conducting official business of the Committee.
- (b) A majority of the members of the Committee, including either the chair or vice-chair, shall constitute a quorum at any meeting, and a majority of the required quorum shall be sufficient for the committee to take action by vote.

SUBCHAPTER 3. APPLICATION FOR LICENSURE

435:70-3-1. License required

- (a) Effective November 1, 2010, a licensed therapeutic recreation specialist may use the letters TRS/L or CTRS/L in connection with his or her name or place of business. CTRS/L is contingent upon maintenance of the National Council for Therapeutic Recreation Certification (NCTRC) credential.
- (b) A person or business entity, its employees, agents, or representatives shall not use in conjunction with that person's name or the activity of the business the words therapeutic recreation specialist, therapeutic recreation, recreational therapy, recreational therapist, recreation therapist, the letters CTRS, TRS, or TR, or any other words, abbreviations or insignia indicating or implying directly or indirectly that therapeutic recreation is provided or supplied, including the

billing of services labeled as therapeutic recreation, unless such services are provided under the direction of a therapeutic recreation specialist licensed pursuant to this act.

435:70-3-2. Qualifications for licensure

- (a) To be eligible for licensure as a therapeutic recreation specialist pursuant to the provisions of the Therapeutic Recreation Practice act, an applicant shall:
- (1) Be at least eighteen (18) years of age;
 - (2) Be of good moral character;
 - (3) Have successfully completed an academic program with a baccalaureate degree or higher from an accredited college or university with a major in therapeutic recreation or a major in recreation or leisure with an option and/or emphasis in therapeutic recreation;
 - (4) Have successfully completed a period of field experience under the supervision of a Certified Therapeutic Recreation Specialist (CTRS) or a licensed therapeutic specialist approved by the educational institution where the applicant has met his or her academic requirements; and
 - (5) Successfully completed the proctored examination approved by the State Board of Medical Licensure and Supervision.
- (b) The State Board of Medical Licensure and Supervision may, upon notice and opportunity for a hearing, deny an application for reinstatement of a license or reinstate the license with conditions. Conditions imposed may include a requirement for continuing education, practice under the supervision of a licensed therapeutic recreation specialist, or any other conditions deemed appropriate by the Board.
- (c) Notwithstanding subsection (a) of this section, the Board may grant initial licenses to therapeutic recreation specialists who are certified by the National Council for Therapeutic Recreation Certification (NCTRC) prior to July 1, 2009, and who hold an active CTRS credential.

435:70-3-3. Application for 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 Act.
- (b) The application and forms shall be submitted to the Board accompanied by a fee of \$125 for initial licensure or \$100.00 for renewal of licensure. 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.
- (c) Any applicable fees paid shall not be refunded. The applicant shall be forthright and open in the provision of information to the Board in the application process. The Board may deny a license to any applicant who does not provide the Board with complete, open and honest responses to all requests for information.

(d) A Committee member or 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 a therapeutic recreation specialist.

(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 therapeutic recreation with reasonable skill and safety.

435:70-3-4. Required documentation

(a) Applicants must submit the following:

- (1) Application form and appropriate fee(s);
- (2) Verification of NCTRC certification;
- (3) Verification of licensure from each state from which a license is currently or has been held to practice in a medically related field.
- (4) Background check.

(b) Applicants who have never held an Oklahoma license and who have not practiced as a Therapeutic Recreation Specialist within the previous twelve (12) months wishing to obtain a license may be required to make a personal appearance before the Committee and practice under the personal supervision of a licensed Therapeutic Recreation Specialist 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.

435:70-3-5. Temporary licenses - Supervision

(a) A temporary license authorizing practice under the direct supervision of a licensed Therapeutic Recreation Specialist may be issued to a person who has applied for a license and who is eligible to take the examination pursuant to the provision of the Act, Title 59 O.S., §540.11 (B). The temporary license shall be available to an applicant only with respect to his or her first application for licensure. The temporary license shall expire upon notice that the applicant has or has not passed the examination.

(b) A temporary license authorizing practice under the general supervision of a licensed Therapeutic Recreation Specialist may be issued to a person who has applied for a license pursuant to the provision of the Act, Title 59 O.S., §540.11 (A) provided all requirements for licensure have been met and verified. The temporary license will permit legal practice during the interim from the time the application is complete and the time when the Board grants a license. Verification of supervision must be submitted in order for a temporary license to be issued.

435:70-3-6. Licensure by endorsement

Upon payment to the State Board of Medical Licensure and Supervision of a fee as provided by the Therapeutic Recreation Practice Act and submission of a written application on forms provided by the Board, the Board may issue a license without examination to any person who is licensed or otherwise certified as a therapeutic recreation specialist by another state or national certifying body which has substantially the same standards for licensure as are required by this state pursuant to the provisions of the Therapeutic Recreation Practice Act.

SUBCHAPTER 5. BIENNIAL RENEWAL

435:70-5-1. Requirements for renewal of license

(a) Licensees must renew their licenses biennially on or before November 30th.

(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 made inactive 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.

435:70-5-2. Renewal procedure

(a) Each licensee will be required to renew in a form required by the Board. Licensees will be notified at least thirty (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 and proof of required continuing education hours.

(d) The Board shall issue a renewal of license identification card to a licensee who has met all requirements for renewal.

(e) 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.

435:70-5-3. 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 inactive.

(b) A person whose license is inactive for not more than thirty (30) days may renew the license by paying the required renewal fee and late fee, if received within thirty (30) days of the end of the renewal period.

Emergency Adoptions

(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 personal supervision of a licensed Therapeutic Recreation Specialist 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 a Therapeutic Recreation Specialist, an applicant for reinstatement may be required to retake the test for initial licensure.

435:70-5-4. Continuing education

(a) Every two years individuals seeking to renew licensure/registration must show proof of current certification by the National Council for Therapeutic Recreation Certification, or provide proof of 20 continuing education hours.

(b) Any applicant for renewal who cannot meet the requirements for continuing education may make a written request for an extension from the Board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension for a period of up to one calendar year may be granted if circumstances make it impossible or extremely difficult for the applicant to obtain the required continuing education hours. Such circumstances may include, but are not limited to, extended illness, family emergency, etc.

(c) Each applicant is responsible for maintaining evidence/proof/record of participation in a continuing education experience for a minimum of six years. Such proof shall include documented evidence as provided by the National Council for Therapeutic Recreation Certification or evidence submitted by the applicant including:

- (1) date, place, course title, schedule, presenter(s), etc.,
- (2) number of contact hours for activity,
- (3) proof of completion, such as abstracts, certificates of attendance, or other certification of completion.

(d) New licentiates or registrants will be required to obtain continuing education hours on a pro rata basis based upon when the license or registration was issued during the accounting period. Furthermore, no continuing education hours will be required during the full calendar year of initial licensure or registration.

(e) The Therapeutic Recreation Advisory committee shall conduct random audits of the continuing education records of the number of licensees or registrants that time and resources permit. The Committee may appoint a sub-committee to review audits and requests for approval of continuing education experiences and make recommendations to the Committee for disposition.

(f) Penalties for failure to comply with continuing education requirements may be assessed after notice and hearing as required by law. Penalties may include imposition of additional continuing education hours, probation, suspension, or revocation of license or registration.

435:70-5-5. Approval of continuing education

(a) **Pre-approval by the Committee is not required for guaranteed credit.** Continuing education that is offered or approved by the National Council for Therapeutic Recreation Certification will automatically be accepted for credit.

(b) **Pre-approval by the Committee is required for guaranteed credit.** Workshops or seminars not pre-approved may or may not be accepted for credit if submitted at the time of audit. To receive approval for continuing education hours from the Committee, the licensee must provide the following materials regarding the program or course for which credit is sought:

- (1) A program agenda showing a breakdown of time spent in instruction periods, break time, meals, etc., in the case of film or tape presentation, duration, title, and a brief summary of presentation, or in the case of academic course work, a copy of the course syllabus;
- (2) A statement of the course or program's goals and objectives sufficient to provide information for evaluation of relevancy and practical application to the field of orthotics and/or prosthetics;
- (3) Documentation of instructor background/expertise;
- (4) location of the program, including the location city, state, and zip, name and phone number of contact person.
- (5) method of certifying attendance
- (6) copy of published material (if applicable).

435:70-5-6. Methods for obtaining continuing education

(a) **Traditional methods** - as accepted and outlined by the National Council for Therapeutic Recreation Certification or other Committee-approved organizations. These include:

- (1) Academic courses for continuing education credit (one semester credit may be granted up to 15 continuing education hours).
- (2) Publications and presentation for continuing education credit (credit will not be given for repeat or multiple presentations of the same information or publications duplicated in different formats).
- (3) Research as principal or co-investigator, project director or research assistant, or quality assurance studies completed and published in a journal, newsletter or professional magazine. Research proposal and final results submitted to Committee for approval.
- (4) Correspondence courses and Computer Based Instruction - organized course content in a text or computer-generated format related to Therapeutic Recreation at college/university level.

(b) **Activities not accepted** - Learning opportunities not listed above may be considered for continuing education credit, but will require preapproval. However, the following are some examples of activities that will not be accepted: Cardiopulmonary Resuscitation (CPR) training, first aid, infectious disease control, life saving and activity or other skill-based courses.

SUBCHAPTER 7. REGULATION OF PRACTICE

435:70-7-1. Supervision

A licensed Therapeutic Recreation Specialist may not be the general or direct supervisor for more than two (2) applicants for licensure at any one time.

435:70-7-2. Referrals medically-related conditions

(a) Initiation of therapeutic recreation services to individuals with medically-related conditions shall be based on a referral from a physician who is either a medical doctor or a doctor of osteopathy.

(b) No freestanding clinic may be operated under this license.

(c) Prevention, wellness, education, adaptive sports, recreation and related services shall not require a referral.

435:70-7-3. Grounds for disciplinary action

(a) The Board may reprimand or place on probation any holder of a Therapeutic Recreation Specialist license or revoke or suspend any license issued to Therapeutic Recreation Specialist who is found in violation of the Act. Violations include but shall not be limited to the following:

- (1) Conviction of a felony or of any offense involving moral turpitude.
- (2) Conviction of, or admission of guilt, or plea of no contest to a felony or misdemeanor.
- (3) Dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public.
- (4) Aiding, abetting or assisting any other person to violate or circumvent any law, rule or regulation intended to guide the conduct of a Therapeutic Recreation Specialist .
- (5) Procuring, aiding or abetting a criminal operation.
- (6) Participation in fraud, abuse and/or violation of state or federal laws.
- (7) Fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices.
- (8) Improper management of medical records, inaccurate recording, falsifying or altering of client records.
- (9) Falsely manipulating client's records or forging a prescription for medication/drugs, or presenting a forged prescription.
- (10) Habitual intemperance or the habitual use of habit-forming drugs.
- (11) Habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of recreational therapy and the responsibilities of the licensee.
- (12) Unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma.
- (13) Engaging in physical conduct with a client that is sexual in nature, or in any verbal behavior that is seductive or sexually demeaning to a client.
- (14) While engaged in the care of a client, engaging in conduct with a client, client family member, or significant other that is seductive or sexually demeaning/exploitive in nature.

(15) Verbally or physically abusing clients.

(16) Discriminating in the rendering of client care.

(17) Leaving a client care assignment without properly advising the appropriate personnel.

(18) Violating the confidentiality of information or knowledge concerning a client.

(19) Any conduct which potentially or actually jeopardizes a client's life, health or safety.

(20) Negligence while in practice of recreation therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board.

(21) Being judged mentally incompetent by a court of competent jurisdiction.

(22) Failing to timely make application for license renewal.

(23) Falsifying documents submitted to the Therapeutic Recreation Committee or the Oklahoma State Board of Medical Licensure and Supervision.

(24) Obtaining or attempting to obtain a license, certificate or documents of any form as a Therapeutic Recreation Specialist by fraud or deception.

(25) Cheating on or attempting to subvert the national Therapeutic Recreation Specialist examination or skills assessment tests.

(26) Failure to report through proper channels the unsafe, unethical or illegal practice of any person who is providing care.

(27) Failure to furnish to the Board, its investigators or representatives, information lawfully requested by the Board.

(28) Failure to cooperate with a lawful investigation conducted by the Board.

(29) Violation of any provision(s) of the Therapeutic Recreation Act or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board.

(30) 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.

(b) A Therapeutic Recreation Specialist who knowingly allows or participates with individual(s) who are in violation of the above will be prohibited from supervising other Therapeutic Recreation Specialist or Therapeutic Recreation Specialist Assistants for so long as the Board deems appropriate, and may themselves be subject to disciplinary action pursuant to their conduct.

(c) All Therapeutic Recreation Specialist are responsible for maintaining and promoting the ethical practice of Therapeutic Recreation. Therapeutic Recreation personnel shall act in the best interest of the client at every level of practice. This Code of Ethics shall be binding on all Therapeutic Recreation personnel. All Therapeutic Recreation Personnel shall:

(1) Demonstrate a concern for the well-being of the recipients of their services. (Beneficence).

Emergency Adoptions

- (2) Take reasonable precautions to avoid imposing or inflicting harm upon the recipient of services or to his/her property. (Nonmaleficence).
- (3) Respect the recipient and/or their surrogate(s) as well as the recipient's rights. (Autonomy, privacy, confidentiality).
- (4) Achieve and continually maintain high standards of competence. (Duties)
- (5) Comply with laws and policies guiding the profession of Therapeutic Recreation.

(Justice).

- (6) Provide accurate information about Therapeutic Recreation services. (Veracity)
- (7) Treat colleagues and other professionals with fairness, discretion and integrity.

[OAR Docket #10-1307; filed 11-18-10]
