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**Mary Fallin, Governor**  
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# Notices of Rulemaking Intent

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

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

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

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**TITLE 540. PHYSICIAN MANPOWER  
TRAINING COMMISSION  
CHAPTER 50. OKLAHOMA MEDICAL  
LOAN REPAYMENT PROGRAM**

*[OAR Docket #12-833]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

540:50-1-1. through 540:50-1-9. [NEW]

**SUMMARY:**

Provisions related to the purpose, terms, conditions, eligibility, amount, method of payment and renewal of the Oklahoma Medical Loan Repayment Program to reflect statutory language.

**AUTHORITY:**

Physician Manpower Training Commission; 63 O.S. 1-2720

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 4:00 P.M. on Wednesday, September 12, 2012 at the following address: Physician Manpower Training Commission, 5500 North Western Avenue, Suite 201, Oklahoma City, OK 73118.

**PUBLIC HEARING:**

A public hearing will be held at 10:30 A.M. on Thursday, September 13, 2012 at the Samis Education Center, 1200 Childrens Avenue, Oklahoma City. Anyone who wishes to speak must sign in at the door by 10:35 A.M.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Physician Manpower Training Commission, 5500 North Western Avenue, Suite 201, Oklahoma City, OK 73118.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. 1991 Section 303(D), a rule impact statement has been prepared and may be obtained from the Physician Manpower Training Commission at the above address.

**CONTACT PERSON:**

Terrie Hardin, Executive Secretary, Physician Manpower Training Commission, 5500 North Western Avenue, Suite 201, Oklahoma City, OK 73118, (405)843-5667.

*[OAR Docket #12-833; filed 6-29-12]*

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# 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 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 55. COMMERCIAL PET BREEDERS**

*[OAR Docket #12-836]*

### **RULEMAKING ACTION:**

EMERGENCY adoption

### **RULES:**

- Subchapter 1. Licensing [NEW]
- 35:55-1-1. Purpose [NEW]
- 35:55-1-2. Definitions [NEW]
- 35:55-1-3. License required [NEW]
- 35:55-1-4. License application [NEW]
- 35:55-1-5. Grounds for denial, suspension, or revocation of a license [NEW]
- 35:55-1-6. Inspections [NEW]
- 35:55-1-7. Changes of information [NEW]
- 35:55-1-8. Fees [NEW]
- 35:55-1-9. Annual Report [NEW]
- 35:55-1-10. Renewals [NEW]
- 35:55-1-11. Complaints [NEW]
- 35:55-1-12. Display of license [NEW]
- 35:55-1-13. Exemption for training animals [NEW]
- Subchapter 3. Standards of Care [NEW]
- 35:55-3-1. Incorporation by reference [NEW]
- 35:55-3-2. Watering [NEW]
- 35:55-3-3. Compatibility [NEW]
- 35:55-3-4. Primary enclosures [NEW]
- 35:55-3-5. Waste management [NEW]
- 35:55-3-6. Veterinary care [NEW]
- 35:55-3-7. Grooming [NEW]
- 35:55-3-8. Quarantine [NEW]
- 35:55-3-9. Animal identification [NEW]
- 35:55-3-10. Euthanasia procedures [NEW]
- Subchapter 5. Transportation [NEW]
- 35:55-5-1. General transportation requirements [NEW]
- 35:55-5-2. General travel requirements [NEW]
- 35:55-5-3. Consignment to carriers [NEW]
- 35:55-5-4. Primary enclosures used to transport live pets [NEW]
- 35:55-5-5. Food and water during transportation [NEW]
- Subchapter 7. Recordkeeping and sales [NEW]
- 35:55-7-1. Records [NEW]
- 35:55-7-2. Pet health history provided to purchaser; sale of unhealthy pets [NEW]
- 35:55-7-3. Sales invoice or statement [NEW]
- 35:55-7-4. Location of sales [NEW]
- 35:55-7-5. Prohibition on the purchase, sale, or transportation of stolen pets [NEW]
- 35:55-7-6. Other requirements or acts prohibited [NEW]

### **AUTHORITY:**

Oklahoma Constitution, Article 6, Section 31; 2 O.S. § 2-4; and HB 2921, approved by the Governor on 5/25/2012.

### **DATES:**

#### **Adoption:**

June 19, 2012

#### **Approved by Governor:**

June 21, 2012

#### **Effective:**

Immediately upon Governor's approval

#### **Expiration:**

Effective through July 14, 2013, unless superseded by another rule or disapproved by the Legislature

#### **SUPERSEDED EMERGENCY ACTIONS:**

N/A

#### **INCORPORATIONS BY REFERENCE:**

N/A

#### **FINDING OF EMERGENCY:**

HB 2921 declares that an emergency "necessary for the preservation of the public peace, health and safety exists" and directs the Board of Agriculture to adopt emergency rules to implement the provisions of HB 2921. See HB 2921 sections 17 and 20. Accordingly, the Department Agriculture, Food, and Forestry is adopting emergency rules as directed by HB 2921 pursuant to the legislative finding of an emergency condition.

#### **ANALYSIS:**

The purpose of the proposed emergency rules is to implement the provisions of House Bill 2921 of the 2012 Legislative session related to commercial pet breeders. House bill 2921 transfers regulation of commercial pet breeders from the Oklahoma State Board of Commercial Pet Breeders to the Oklahoma Department of Agriculture, Food, and Forestry. Section 17 of House Bill 2921 allows the Department to promulgate emergency rules that allow the Department to begin a commercial pet breeders program beginning on July 1, 2012. These rules are necessary to allow the Department to comply with deadlines in amendments to an agency's governing law. These rules contain provisions related to licensing requirements, application contents, inspections, fees for licenses, annual reports, renewals, complaints, exemptions for training animals, standards of care, transportation, recordkeeping, and sale of animals. Section 17 of House Bill 2921 allows the Department to enforce the rules promulgated by the Oklahoma State Board of Commercial Pet Breeders. In these rules, the Department proposes reductions in those fees, therefore they do not qualify as new fees or fee increases.

#### **CONTACT PERSON:**

Bennett Abbott, (405) 522-5803, [bennett.abbott@ag.ok.gov](mailto:bennett.abbott@ag.ok.gov)

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

### **SUBCHAPTER 1. LICENSING**

## Emergency Adoptions

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### **35:55-1-1. Purpose**

(a) These rules are for regulating commercial pet breeders pursuant to Section 30.1 et seq. of Title 4 of the Oklahoma Statutes and known as the Commercial Pet Breeders Act of 2012. The administration of the Commercial Pet Breeders Act of 2012 shall be performed by the Oklahoma Department of Agriculture, Food, and Forestry and the State Board of Agriculture. Administration of the Act shall conform to the Administrative Procedures Act, Title 2 of the Oklahoma Statutes, and procedural rules found in Title 35 of the Oklahoma Administrative Code as promulgated by the State Board of Agriculture.

(b) It shall be the policy and recommendation of the State Board of Agriculture that no pet breeder shall breed a female animal unless she is healthy and has reached her second estrus cycle.

### **35:55-1-2. Definitions**

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

"Adult animal" means an intact female animal twelve (12) months of age or older;

"Animal" means a dog or a cat;

"Board" means the State Board of Agriculture;

"Cat" means a mammal that is wholly or partly of the species Felis domesticus;

"Commercial breeder" and "commercial pet breeder" mean any individual, entity, association, trust, or corporation who possesses eleven or more intact female animals for the use of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;

"Commercial pet breeder license" means a license issued to any person that qualifies and is licensed as a commercial pet breeder;

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

"Dog" means a mammal that is wholly or partly of the species Canis familiaris;

"Facility" means the premises used by one or more commercial breeders for keeping, housing, or breeding animals. The term includes all buildings, property, and confinement areas in a single location used to conduct the commercial breeding business;

"Family member" means the parent, spouse, child, or sibling of an individual;

"Humane society" means a nonprofit organization exempt from federal income taxation as an organization described in Section 501(c)(3), Internal Revenue Code of 1986, as amended, that has as a principal purpose the prevention of animal cruelty or the sheltering of, caring for, and providing of homes for lost, stray, and abandoned animals;

"Inspector" means an authorized agent of the Board or any other qualified person authorized by the Department to conduct inspections;

"Intact female animal" means a female animal, nine (9) months of age or older, and not spayed;

"Kitten" means a cat less than twelve (12) months old;

"Local animal control authority" means a municipal or county animal control office with authority over the premises in which an animal is kept or, in an area that does not have an animal control office, the county sheriff;

"Marketing" means the solicitation for sale of animals;

"Necessary veterinary care" means at least one personal visual inspection annually by a veterinarian licensed in Oklahoma, guidance from a licensed veterinarian on preventative care, an exercise plan is approved by a licensed veterinarian, normal and prudent attention to skin, coat, and nails, prompt treatment of any illness or injury, and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association. If, during the course of a routine personal visual inspection, the licensed veterinarian detects signs of disease or injury in an animal, then a physical examination of the animal shall be conducted by the licensed veterinarian.

"Noncommercial breeder" means any individual, entity, association, trust, or corporation who possesses ten or fewer intact female animals for the use of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;

"Owner" means a person who owns ten percent (10%) or more of the ownership interest in a commercial pet breeder facility, directly or indirectly, in an entity.

"Person" means any individual, association, trust, corporation, limited liability company, partnership, or other entity;

"Pet" means a dog or cat, including a puppy or kitten;

"Possess" means to have custody of or control over, but shall not include custody or control over an animal by a person who is not a resident of Oklahoma and is in Oklahoma for the sole purpose of attending a competitive show or event held in Oklahoma;

"Puppy" means a dog less than twelve (12) months old;

and  
"Veterinarian" means a person currently licensed to practice veterinary medicine in Oklahoma.

### **35:55-1-3. License required**

(a) A person shall not act, offer to act, or hold himself or herself out as a commercial pet breeder in this state unless the person holds a commercial pet breeder license obtained pursuant to the Commercial Pet Breeders Act of 2012 for each facility that the person owns or operates in this state.

(b) It shall be unlawful for any person to act as a commercial pet breeder licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Commercial Pet Breeders Act of 2012.

(c) The commercial pet breeder license shall begin on July 1 and expire on June 30 of each calendar year.

(d) Each commercial pet breeder shall renew the license prior to June 30 of each calendar year.

(e) Any person who intends to become a commercial pet breeder shall obtain a commercial pet breeder license prior to operation.

(f) Any person who does not meet the definition of a commercial pet breeder but chooses to voluntarily obtain a commercial pet breeder license shall comply with all rules

as though they do meet the definition of a commercial pet breeder.

(g) Each commercial pet breeder shall have a fixed place of business with a specific physical location and shall conform to local zoning ordinances authorizing the occupancy of a commercial pet breeder at that location.

### **35:55-1-4. License application**

(a) The Oklahoma Department of Agriculture, Food, and Forestry shall issue a commercial pet breeder license to each commercial pet breeder who:

- (1) Meets the requirements of the Commercial Pet Breeders Act of 2012;
- (2) Applies to the Department on the form prescribed by the Department; and
- (3) Pays the required fee.

(b) A commercial pet breeder shall obtain a separate license for each facility where breeding animals are kept. A separate license shall be issued for each facility of the commercial pet breeder, whether or not the breeder has eleven or more intact female animals at each facility.

(c) If a single facility is shared by more than one person, each person shall be required to become individually licensed if eleven or more intact females used for breeding are housed at the facility, unless all animals are combined on a single license.

(d) An applicant applying for a commercial pet breeder's license shall submit a completed license application signed under oath containing the following information:

- (1) Name, mailing address, telephone number, and email address, if any, of the applicant;
- (2) Name, if different, physical address and telephone number of the facility, including driving directions from the nearest municipality, and legal description of the facility location;
- (3) Name, address, telephone number, and email address, if any, of the operator of the facility, if different from the owner;
- (4) If the applicant is an entity, association, trust, or corporation, the name and address of each member with an ownership of ten percent (10%) or more in the facility;
- (5) If the applicant is an entity, the name, address, telephone number, and email address, if any, of the Oklahoma registered agent;

(6) The sales tax identification number of the commercial pet breeder, unless the commercial pet breeder only sells animals wholesale;

(7) A list of the date, subject matter, and court or government entity for any individual required to be disclosed by this section for each of the following:

- (A) Has ever been convicted of, or entered a plea of guilty or no contest, to any felony, or any crime involving animal cruelty, abuse, or neglect;
- (B) Has ever received any adverse ruling from any court of competent jurisdiction or any administrative tribunal involving honesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence in a matter related to commercial pet breeding, or cruelty to animals;

(C) Has ever had an application for a license, registration, certificate, or endorsement related to pet breeding or animal care denied or rejected by any state or federal licensing authority in Oklahoma or another state;

(D) Whether any commercial pet breeder licensing board, kennel regulation board, or similar agency has ever revoked or suspended a license, registration, certificate, or endorsement; and

(E) Has ever surrendered a license, registration, certificate, or endorsement to the Board or any state or federal commercial pet breeder or kennel licensing authority, whether located in Oklahoma or elsewhere;

(8) Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;

(9) A notarized statement swearing that the information submitted on the application is true and correct;

(10) State the total number of animals owned by the commercial pet breeder on the date of application and identify how many of the animals are intact female animals, males, and juveniles;

(11) The date of commencement of operations at that location; and

(12) Any other relevant information required by the Board.

(e) If an applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant may submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.

(f) An application may be withdrawn from consideration by the applicant at any time.

(g) Any commercial pet breeder whose application is denied due to failure to submit information in a timely manner or who withdrew the application may submit a new application and appropriate fees.

### **35:55-1-5. Grounds for denial, suspension, or revocation of a license**

The Oklahoma Department of Agriculture, Food, and Forestry may deny a license, or renewal thereof, or revoke a license of any applicant or commercial pet breeder who fails to meet the standards of animal care or fails to follow the application process adopted by the Department, or if the person:

- (1) Is convicted of a crime involving animal cruelty;
- (2) Is convicted of violating the Commercial Pet Breeders Act of 2012 more than three times;
- (3) Is convicted of a type of felony specified by subparagraphs a through pp of paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes;
- (4) Is convicted of a felony punishable under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; or

## Emergency Adoptions

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(5) Has held or applied for a United States Department of Agriculture license pursuant to the Animal Welfare Act and whose license was suspended or revoked, or whose application was refused due to the improper care of animals.

### **35:55-1-6. Inspections**

(a) The Oklahoma Department of Agriculture, Food, and Forestry may contract with a local veterinarian licensed by the state, other state agency or any other qualified person to conduct or assist in an initial prelicense inspection and annual inspections.

(b) The Department shall arrange for an inspection at a facility prior to issuance of an initial commercial pet breeder license for that facility.

(1) The Department shall not issue a commercial pet breeder license to any person until the Department receives an initial prelicense inspection report from the inspector in a format approved by the Department certifying that the facility meets the requirements of the Commercial Pet Breeders Act of 2012.

(2) Prior to the initial prelicense inspection, each applicant shall pay to the Department a nonrefundable inspection fee.

(c) The Department, at least annually, shall arrange for the inspection of each facility of a licensed commercial pet breeder. The inspection shall be conducted during normal business hours and the commercial pet breeder or a representative of the commercial pet breeder shall be present during the inspection.

(d) The inspector shall submit an inspection report to the Department not later than ten (10) days after the date of the inspection on a form prescribed by the Department and provide a copy of the report to the commercial breeder or the representative.

(1) The inspection report shall include an itemized list of violations, if any, and may include recommendations for correction.

(2) A copy of the inspection report shall be sent to the commercial pet breeder who shall have thirty (30) calendar days to correct any deficiencies.

### **35:55-1-7. Changes of information**

A commercial pet breeder shall notify the Oklahoma Department of Agriculture, Food, and Forestry in writing not later than ten (10) days after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.

### **35:55-1-8. Fees**

The Board shall charge the following nonrefundable license or renewal fees:

(1) One (1) to ten (10) intact female animals: \$125.00

(2) Eleven (11) to twenty (20) intact female animals: \$200.00

(3) Twenty one (21) to fifty (50) intact female animals: \$350.00

(4) Fifty one (51) to one hundred (100) intact female animals: \$500.00

(5) One hundred and one (101) or more intact female animals: \$650.00

(6) If the commercial pet breeder submits a renewal application and fee after the expiration date, the commercial pet breeder shall pay double the renewal fee as a late charge and the filing of a late application shall also be deemed a violation.

### **35:55-1-9. Annual report**

(a) Not later than February 1 of each year, a commercial pet breeder shall submit to the Oklahoma Department of Agriculture, Food, and Forestry an annual report on a form prescribed by the Department setting forth the number of adult intact female animals held at the facility at the end of the prior year and such other information regarding the commercial pet breeder's prior year's operations as required by the Department.

(1) Number of animals at the facility on December 31;

(2) Number of animals sold during the previous calendar year;

(3) Number of animals added to the facility during the previous calendar year;

(4) Number of animals removed from the facility during the previous calendar year;

(5) Number of mortalities during the previous calendar year;

(6) List of type, date of occurrence and number of mortalities due to any animal disease at the facility during the previous calendar year; and

(7) Number of animals exchanged or refunded from the facility.

(b) The commercial pet breeder shall keep a copy of the annual report at the facility of the commercial pet breeder and, on request, make the report available to the authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

(c) A license holder that has more than one facility shall keep separate records and file a separate report for each facility.

### **35:55-1-10. Renewals**

(a) A commercial pet breeder who is not in violation of the Commercial Pet Breeders Act of 2012 or any rule adopted under the Commercial Pet Breeders Act of 2012 may renew the license of the person by:

(1) Submitting a renewal application to the Oklahoma Department of Agriculture, Food, and Forestry on the form prescribed by the Department containing any changes to the information provided in the initial application.

(2) Complying with any other renewal requirements adopted by the Department; and

(3) Paying the required fee.

(b) Any person who fails to apply for a renewal in a manner prescribed by the Department, and whose license has expired, may not engage in activities that require a license until the license has been renewed.

(c) Not later than sixty (60) days before the expiration of the license, the Department shall send written notice of the impending license expiration to the commercial pet breeder at the last-known address according to the records of the Department.

**35:55-1-11. Complaints**

(a) On receipt of a valid written complaint alleging a violation of the Commercial Pet Breeders Act of 2012, an authorized agent of the State Board of Agriculture, a local animal control authority, or an inspector designated by the Department may investigate the alleged violation.

(b) Any person may submit a written and signed complaint to the Department alleging a violation of the Commercial Pet Breeders Act of 2012 or rules promulgated thereunder.

(c) Upon receipt of a written complaint, the Department notifies the person filing the complaint in writing of its receipt and status within five (5) working days.

(d) The party whom the complaint is filed against, if known, is notified within five (5) working days.

(e) The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies appropriate to the circumstances.

(f) The complainant and commercial pet breeder shall be notified in writing within seven (7) working days after the resolution of the complaint.

**35:55-1-12. Display of license**

A commercial pet breeder shall:

(1) Prominently display a copy of the commercial pet breeder license at the facility of the commercial pet breeder;

(2) Include the commercial pet breeder license number in each advertisement for the sale or transfer of an animal by the commercial pet breeder; and

(3) Include in each contract for the sale or transfer of an animal by the commercial pet breeder the commercial pet breeder license number.

**35:55-1-13. Exemption for training animals**

(a) Intact female animals held solely for the purpose of training and are not bred shall be exempt from the licensing requirements of these rules.

(b) Any person who holds intact female animals solely for the purpose of training shall provide documentation to the Department showing the training of the animal. Documentation may include, but not be limited to the following:

(1) Sales records showing the animals were trained and sold as trained;

(2) Training records and certifications provided with the animals or provided to purchasers of the trained animals;

(3) Any other documentation that substantiates that the animals were held solely for training purposes and were not bred.

**35:55-3-1. Incorporation by reference**

(a) The following provisions of Title 9 of the Code of Federal Regulations and the requirements contained therein pertaining to Animal Welfare, Part 3 (Standards) are, unless otherwise specified, adopted and incorporated by reference in their entirety:

- (1) 3.1 (housing facilities, general)
- (2) 3.2 (indoor housing facilities)
- (3) 3.3 (sheltered housing facilities)
- (4) 3.4 (outdoor housing facilities)
- (5) 3.5 (mobile or traveling housing facilities)
- (6) 3.6 (primary enclosures), except for 3.6 (c)(1)(ii) and (c)(2)
- (7) 3.7 (compatible grouping)
- (8) 3.8 (exercise for dogs)
- (9) 3.9 (feeding)
- (10) 3.11 (cleaning, sanitization, housekeeping, and pest control)
- (11) 3.12 (employees)
- (12) 3.13 (consignments to carriers and intermediate handlers)
- (13) 3.14 (primary enclosures used to transport live dogs and cats)
- (14) 3.15 (primary conveyances [motor vehicle, rail, air, and marine])
- (15) 3.16 (food and water requirements)
- (16) 3.17 (care in transit)
- (17) 3.18 (terminal facilities)
- (18) 3.19 (handling)

(b) When reference is made to a federal entity, it shall mean the state counterpart.

(c) When reference is made to 9 CFR it means, unless otherwise specified, the volume of 9 CFR as published on July 1, 2011.

**35:55-3-2. Watering**

If potable water is not continually available to the animals, it shall be offered to the animals as often as necessary to ensure their health and wellbeing, but not less than three (3) times daily for at least one (1) hour each time, unless restricted by the attending veterinarian.

**35:55-3-3. Compatibility**

(a) A commercial pet breeder shall place only compatible animals in the same primary enclosure and at a minimum shall not place the following animals together in the same primary enclosure:

- (1) Breeding female animals in heat in the same enclosure at the same time with sexually mature male animal, except for breeding purposes;
- (2) Breeding females and their litters in the same enclosure at the same time with other adult dogs;
- (3) Puppies or kittens under four (4) months of age with other adult animals other than their dam or foster dam, unless maintained in breeding colonies; or
- (4) Animals exhibiting vicious or an aggressive disposition with any other animal.

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(b) A commercial pet breeder shall not place more than six (6) adult animals simultaneously in any enclosure.

### **35:55-3-4. Primary enclosures**

(a) Any commercial pet breeder that applies for a commercial pet breeder license no later than September 1, 2012, shall not be required to meet any cage size requirement more stringent than United States Department of Agriculture standards. Regardless of license application date, any commercial pet breeder replacing or adding cages after September 1, 2012, shall meet the cage size requirements as of the date of replacement or addition.

(b) Any new commercial pet breeder or any commercial pet breeder replacing or adding cages after September 1, 2012 shall meet the following primary enclosure size requirements for dogs.

(1) Commercial pet breeders may house up to six (6) dogs removed from their whelping box in the same primary enclosure, but the primary enclosure shall provide at least the following amount of square feet of floor space:

(A) For an enclosure containing one dog, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 2. Mathematically, the space the commercial pet breeder must provide for the first dog equals  $2 \times [(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6)/144]$ .

(B) For an enclosure containing two dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 3. Mathematically, the space the commercial pet breeder must provide for the first dog equals  $3 \times [(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6)/144]$ .

(C) For an enclosure containing three dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 4. Mathematically, the space the commercial pet breeder must provide for the first dog equals  $4 \times [(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6)/144]$ .

(D) For an enclosure containing four dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 5. Mathematically, the space the commercial pet breeder must provide for the first dog equals  $5 \times [(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6)/144]$ .

(E) For an enclosure containing five dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 6. Mathematically, the space the commercial pet breeder must provide for the first dog

equals  $6 \times [(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6)/144]$ .

(F) For an enclosure containing six dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 7. Mathematically, the space the commercial pet breeder must provide for the first dog equals  $7 \times [(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6)/144]$ .

(2) Commercial pet breeders shall provide each female dog with nursing puppies the amount of floor space calculated pursuant to (b)(1) of this section plus sufficient floor space to allow for a whelping box and the litter, based on the intact female's breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian but at a minimum large enough to allow the mother to stretch out on her side, permitting all the puppies to nurse.

(A) If the additional amount of floor space for each nursing puppy is less than five percent (5%) of the minimum requirement for the female dog, the commercial pet breeder shall obtain approval by the attending veterinarian.

(B) As soon as the puppies are able to leave the whelping box, the calculations for additional dogs as specified in (b)(1) of this section shall apply.

(C) Any whelping box or enclosure shall provide for enough room to allow the female dog to separate from the pups in the box or enclosure.

(D) Minimum floor space required by this section shall be calculated excluding floor space taken up of by food pans, water pans, and litter boxes.

(E) Nothing in this section shall require separation of litter mates.

(c) If the floor of a primary enclosure is composed of coated wire, the commercial pet breeder shall provide temporary or permanent covers or inserts creating a solid surface within the primary enclosure equal to twenty five percent (25%) of the minimum size of the enclosure, as calculated under (b)(1) of this section.

### **35:55-3-5. Waste management**

(a) A commercial pet breeder shall remove all animals from enclosures during cleaning and sanitization and shall hold them in an enclosure satisfying the minimum space requirements in this subchapter or in an exercise area.

(b) A commercial pet breeder shall comply with all waste disposal practices required by the Oklahoma Department of Agriculture, Food, and Forestry and other applicable municipal ordinances, state statutes, and federal codes for disposal of pet waste.

(c) A commercial pet breeder shall conduct regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids, wastes, and dead pets, in a manner that minimizes contamination and disease risks.

(d) A commercial pet breeder shall equip housing facilities and primary enclosures with disposal facilities and drainage systems that rapidly eliminate pet waste and allow animals to remain clean and dry at all times.

(1) A commercial pet breeder shall properly construct, install, and maintain all drains.

(2) If a commercial pet breeder uses a closed drainage system, the drains shall be equipped with traps and prevent the backflow of gases and the backup of sewage onto the floor or any surface that animals might touch.

(3) If a commercial pet breeder uses sump or settlement ponds, or other similar systems for drainage and animal waste disposal, the system shall be located far enough away from the pet area of the housing facility holding pets to prevent odors, diseases, pests, and vermin infestation.

(e) Trash containers in housing facilities and in food storage and food preparation areas shall be leak proof and have tightly fitted lids on them at all times.

(f) A commercial pet breeder shall ensure carcass disposal meets all state and local requirements.

(g) A commercial pet breeder shall not keep or allow to be kept animal carcasses or animal waste in food storage or preparation areas, food freezers, food refrigerators, or areas that animals may touch or reach.

(h) Cleaning and treatment of all waste including water shall be done in such a manner that there shall be no adverse effect on any animal in the area.

(i) A commercial pet breeder may stack primary enclosures containing animals over other primary enclosures containing animals so long as there is a barrier or drainage system between the upper and lower enclosures that prevents all waste and debris from falling into the lower enclosures.

(j) A commercial pet breeder shall maintain ammonia levels at all locations in housing facilities at a level that does not interfere with human or animal health or wellbeing.

### **35:55-3-6. Veterinary care**

(a) A commercial pet breeder shall provide animals with necessary veterinary care to ensure animals' wellbeing.

(b) A commercial pet breeder shall provide a sick or injured animal appropriate veterinary care within twenty four (24) hours, unless on weekends, in which case a commercial pet breeder shall provide a sick or injured animal veterinary care on the next business day.

(c) A commercial pet breeder shall follow the directives of the veterinary doctor for care of the animal, including that a commercial pet breeder shall provide to the animals any medications prescribed by the veterinarian and additional food, water, exercise, or any other direction of the veterinarian.

(d) Rabies vaccine may only be administered by or under the supervision of an Oklahoma licensed veterinarian and shall be administered in compliance with rules of the Oklahoma Department of Health.

### **35:55-3-7. Grooming**

(a) Commercial pet breeders shall provide grooming to all dogs, including brushing, tangle removal, nail trims, and hair

trimming, and bathing frequently enough to maintain good skin health and odor control, and no signs of long standing dirt and grime.

(b) The dog's coat shall not be matted to the point that it impedes normal bodily functions, including but not limited to breeding, seeing, eating, drinking, standing, sitting, laying, and waste excretion.

### **35:55-3-8. Quarantine**

In order to minimize the dissemination of disease, commercial pet breeders shall separate from other animals those animals that are under quarantine or receiving treatment for a suspected communicable disease.

### **35:55-3-9. Animal identification**

(a) A commercial pet breeder shall identify each animal two (2) months of age or older and each pet prior to sale or transfer of ownership, if before two (2) months of age, with a form of permanent identification, including but not limited to an implanted permanent pet identification number microchip, tattoo, or other similar mechanism, mark, or devise approved by the Department.

(b) A commercial pet breeder may tattoo in accordance with a registering organization or Federal USDA licensing guidelines.

(c) A commercial pet breeder shall insure that the permanent identification that is placed on the animal matches their sales and breeding records.

(d) A commercial pet breeder that chooses to tattoo, but is not tattooing according to any national guidelines or regulations from a registration agency or other licensing agency shall tattoo in accordance with the following method: OK"License Number"- "Pet Tracking Number". Example: OK123-12.

(e) A commercial pet breeder may request an exception from permanent identification from the Department. The Department shall review the request and determine on a case by case basis if the commercial pet breeder may use another form of identification on animals.

### **35:55-3-10. Euthanasia procedures**

Animals owned or housed by a commercial pet breeder may only be euthanized by a veterinarian licensed in Oklahoma or an Oklahoma Registered Veterinary Technician under the order of an Oklahoma licensed Veterinarian following the Oklahoma Veterinary Practice Act pursuant to accepted euthanasia protocol.

## **SUBCHAPTER 5. TRANSPORTATION**

### **35:55-5-1. General transportation requirements**

When a commercial pet breeder removes animals from housing facilities for transportation, including delivery to purchasers and transportation to auctions or sale locations, they shall transport and care for the pets in a manner that ensures the pets' safety, access to food and water, continued enclosure

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ventilation and sanitation, adequate space, and protection from the elements and extreme temperatures in a reasonably similar manner to that required by these Rules.

### **35:55-5-2. General travel requirements**

(a) A commercial pet breeder shall provide food and water to animals scheduled to be transported during the four (4) hours before travel or before the commercial pet breeder delivers the pet to the carrier. Commercial pet breeders shall provide a small amount of food of the type the pet is regularly fed in a dry storage bag to accompany the animal during transport.

(b) When transporting pets, a commercial pet breeder shall maintain the temperature in pet holding, transportation, or cargo areas above 45 °F (7.2 °C) and below 85 °F (29.5 °C) while pets are present, except for temporary variations in temperature which in no event shall last more than four (4) consecutive hours when animals are present inside a holding, transportation or cargo area or forty five (45) minutes while animals are being transported between holding areas. A commercial pet breeder shall adequately ventilate pet holding areas through windows, doors, vents, fans, blowers, or air conditioning at all times that pets are present, and shall use auxiliary ventilation, such as exhaust fans, vents, fans, blowers, or air conditioning when the ambient temperature is 85 °F (29.5 °C) or higher.

(c) During travel, commercial pet breeders shall remove pets from their primary enclosures every 24 hours to allow the animal to urinate, defecate, and obtain exercise.

(d) Ban on shipment of young pets. Commercial pet breeders shall not sell or transfer ownership, ship, directly or indirectly, animals less than eight (8) weeks of age.

### **35:55-5-3. Consignments to carriers**

(a) A commercial pet breeder shall not deliver an animal for transport in commerce more than four (4) hours before the scheduled departure time of the car, truck, train, aircraft, or other vehicle or transport on which the pet is to be transported.

(b) Commercial pet breeders shall obtain the name, address, and telephone number of the recipient before delivering a pet for transport by a carrier, and shall provide the address to the carrier.

(c) The commercial pet breeder shall prepare a written statement of each traveling pet's condition and shall attach the certification to the outside of each traveling pet's primary enclosure in an easily visible location that allows persons looking at the primary enclosure to read the certification. The certification shall provide the following:

(1) The commercial pet breeder shall certify that it provided food and water to the pet during the 4 hours before the pet was delivered for transport and state the time the feeding and watering occurred;

(2) Instructions for feeding or watering the animal for a twenty four (24) hour period that in no event instructs that the pet be provided no food or water, unless directed by a veterinarian;

(3) The commercial pet breeder's name, address, and license number;

(4) The recipient's name, address, and telephone number;

(5) A description of the pet;

(6) A brief summary of the pet's immunization record; and

(7) The commercial pet breeder's signature and the date and time the certification was signed.

(d) The commercial pet breeder shall instruct the carrier that when a primary enclosure containing a pet has arrived at the animal holding area at a terminal facility after transport, the carrier shall attempt to notify the intended recipient upon arrival and at least once in every 6-hour period thereafter.

(1) The time, date, and method of all attempted notifications and the actual notification of the consignee, and the name of the person who notifies or attempts to notify the consignee must be written either on the carrier's or intermediate handler's copy of the shipping document or on the copy that accompanies the primary enclosure.

(2) The commercial pet breeder shall instruct the carrier that if the intended recipient cannot be notified within 24 hours after the pet has arrived at the terminal facility, the carrier shall return the pet to the commercial pet breeder or to a person that the commercial pet breeder shall designate, and the commercial pet breeder shall pay the carrier additional fees or costs associated with the re-delivery.

(3) The commercial pet breeder shall instruct the carrier that if the intended recipient is notified of the arrival of the pet and does not accept delivery of the pet within 48 hours after arrival of the animal, the carrier shall return the pet to the commercial pet breeder or to a person the commercial pet breeder designates, and the commercial pet breeder shall pay the carrier or intermediate handler additional fees or costs associated with the re-delivery.

(4) The commercial pet breeder shall contract with the carrier or intermediate handler for the carrier or intermediate handler to continue to provide proper care, feeding, and housing to the pet and maintain the pet in accordance with generally accepted professional and husbandry practices while in transportation and until the intended recipient accepts delivery of the animal or until the carrier returns the pet to the commercial pet breeder or a person the commercial pet breeder designates.

### **35:55-5-4. Primary enclosures used to transport live pets**

(a) Each pet must be contained in a primary enclosure such as a compartment, transport cage, or crate while being transported. Primary enclosures used to transport pet shall be constructed so that:

(1) The primary enclosure is strong enough to contain the pet securely and comfortably and to withstand the normal rigors of transportation;

(2) The interior of the primary enclosure has no sharp points or edges and no protrusions that could injure the pet contained in it;

(3) The pet is at all times securely contained within the enclosure and cannot put any part of its body outside the

enclosure in a way that could result in injury to itself, to handlers, or to persons or animal nearby;

(4) The pet can be easily and quickly removed from the enclosure in an emergency;

(5) Unless the enclosure is permanently affixed to the conveyance, the enclosure must have devices such as handles or handholds on its exterior that enable persons to lift, manipulate, and move the enclosure without tilting it, and ensure that persons handling the enclosure will not come into physical contact with the pet contained inside;

(6) Unless the enclosure is permanently affixed to the conveyance, the commercial pet breeder shall clearly mark the primary enclosure on top and on one or more sides with the words "Live Animals," in letters at least 1 inch (2.5 cm.) high, and with arrows or other markings to indicate the correct upright position of the primary enclosure;

(7) Any material, treatment, paint, preservative, or other chemical used in or on the enclosure must be non-toxic to the pet and not harmful to the health or well-being of the pet;

(8) The pet contained inside receives proper ventilation;

(9) The primary enclosure has a solid, leak-proof bottom or a removable, leak-proof collection tray under a slatted or mesh floor that prevents seepage of waste products, such as excreta and body fluids, outside of the enclosure. If a slatted or mesh floor is used in the enclosure, it must be designed and constructed so that the pet cannot fit or place any part of its body between the slats or through the holes in the mesh. Unless the pets are on raised slatted floors or raised floors made of mesh, the primary enclosure must contain enough previously unused litter to absorb and cover excreta. The litter must be of a suitably absorbent material that is safe and nontoxic to pets;

(10) The primary enclosure must not allow for excreta or other wastes to fall on other pets, including that enclosures may not be stacked if the enclosures permit wastes or excreta to fall through the enclosure.

(b) Primary enclosures used to transport live pets must be large enough to ensure that each pet contained in the primary enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position.

(c) A primary enclosure used to hold or transport pets in commerce must be cleaned and sanitized before each use. If the dogs or cats are in transit for more than 24 hours, the commercial pet breeder shall clean the primary enclosure, replace all litters, and use other methods, such as moving the pets to another enclosure, to prevent the soiling of the pets by body wastes. If it becomes necessary to remove the pet from the enclosure in order to clean, or to move the pet to another enclosure, this procedure must be completed in a way that safeguards the pet from injury and prevents escape.

(d) Ventilation methods shall meet the following:

(1) Unless the primary enclosure is permanently affixed to the conveyance, the primary enclosure shall have:

(A) At least one-third of the ventilation area located on the upper half of the primary enclosure; and

(B) At least one of the following:

(i) Ventilation openings located on two opposing walls of the primary enclosure and the openings must be at least 16 percent of the surface area of each such wall, and the total combined surface area of the ventilation openings must be at least 14 percent of the total combined surface area of all the walls of the primary enclosure; or

(ii) Ventilation openings on three walls of the primary enclosure, and the openings on each of the two opposing walls must be at least 8 percent of the total surface area of the two walls, and the ventilation openings on the third wall of the primary enclosure must be at least 50 percent of the total surface area of that wall, and the total combined surface area of the ventilation openings must be at least 14 percent of the total combined surface area of all the walls of the primary enclosure; or

(iii) Ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each of the four walls must be at least 8 percent of the total surface area of each such wall, and the total combined surface area of the openings must be at least 14 percent of total combined surface area of all the walls of the primary enclosure.

(2) If a primary enclosure is permanently affixed to the primary conveyance so that there is only a front ventilation opening for the enclosure, the primary enclosure must be affixed to the primary conveyance in such a way that the front ventilation opening cannot be blocked, and the front ventilation opening must open directly to an unobstructed aisle or passageway inside the conveyance. The ventilation opening must be at least 90 percent of the total area of the front wall of the enclosure, and must be covered with bars, wire mesh, or smooth expanded metal having air spaces.

(e) Commercial pet breeders shall transport in the same primary enclosure no more than one animal 6 months of age or older; one live puppy, 8 weeks to 6 months of age, and weighing over 20 lbs.; or two live puppies or kittens up to 6 months of age, that are of comparable size, and weighing 20 lbs. or less each. Commercial pet breeders shall not transport puppies or kittens 4 months of age or less in the same primary enclosure with adult animals other than their dams. Commercial pet breeders may only transport in the same primary enclosure compatible pets of the same species.

(f) Primary enclosures used to transport pets must be positioned in the primary conveyance so as to allow an animal access to sufficient air for normal breathing at all times, and provide protection from the elements, including that pets shall not be wetted by precipitation when windows, doors, or other openings of animal holding or transportation areas are open. The openings of primary enclosures must be accessible at all times for emergency removal of the pets.

(g) Shipping documents that must accompany shipments of pets must either be held by the operator of the primary conveyance, for surface transportation only, or must be securely attached in a readily accessible manner to the outside of any

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primary enclosure that is part of the shipment, in a manner that allows them to be detached for examination and securely reattached, such as in a pocket or sleeve. Instructions for administration of drugs, medication, and other special care must be attached to each primary enclosure in a manner that makes them easy to notice, to detach for examination, and to reattach securely. The certification of pet condition required by of these Rules must be affixed to the primary enclosure. Shipping documents shall state the number and species of animals being transported.

(h) If the trip is 6 hours or more in length, a litter box shall be provided within each crate for cats. The litter box shall not cover more than 50% of the crate floor, and the remaining space must be large enough for the cat to stand, lie down, and turn around.

### **35:55-5-5. Food and water during transportation**

Commercial pet breeders shall provide food at least once every 24 hours to each animal that is 16 weeks of age and at least once every 12 hours to puppies and kittens less than 16 weeks of age. Commercial pet breeders shall provide potable water to each animal at least once every twelve (12) hours.

## **SUBCHAPTER 7. RECORDKEEPING AND SALES**

### **35:55-7-1. Records**

(a) A commercial pet breeder shall maintain a separate health record for each animal in the facility of the commercial breeder documenting the healthcare of the animal that shall include:

(1) The breed, sex, color, and identifying marks of the animal; and

(2) A record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial pet breeder.

(b) The commercial pet breeder shall make the health records available on request to the Oklahoma Department of Agriculture, Food, and Forestry, an authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

(c) Commercial pet breeders shall create, maintain, and keep records of operations consisting of a list describing all pets, that have been born, housed or kept in the facility at any time, and stating the disposition of all pets listed. In describing the disposition of any pet, the commercial pet breeder shall record the following:

(1) If the animal was sold or otherwise transferred, the manner and location of the sale, transfer, or other disposition, and the purchaser's name and address, if the commercial pet breeder shipped or otherwise transported the animal to the purchaser;

(2) That the pet is still on the premises, or

(3) If the pet died while at the facility, the date of death and cause of the death.

(d) Commercial pet breeders shall keep the following records of all sales or disposition of pet the commercial pet breeder has owned or has housed at the licensed facility:

(1) A description of each sold or disposed pet; and

(2) With respect to each pet list the date of transaction, the location of the transaction, whether the commercial pet breeder transported or shipped the pet for delivery, including the location of the recipient, the age of the pet, and the name and address of the purchaser.

(e) Commercial pet breeders shall keep at their facility records of all pets the commercial pet breeder has purchased or otherwise acquired at any time during the preceding 2 years, which record shall include the date of the transaction, the name and address of the seller, and a description of each pet received, including the age of each pet at the time it was acquired by the commercial pet breeder.

(f) Commercial pet breeders shall keep at their facility breeding records, which, for each adult female animal shall list the dates she was bred, the dates on which her puppies or kittens were born, and the number of puppies or kittens in each litter.

(g) For each pet, commercial pet breeders shall keep copies of documents evidencing the information that must be contained in the pet breeder's records, including veterinary reports, sales receipts, and shipping invoices.

(h) A commercial pet breeder shall maintain all records for a minimum of two (2) years.

### **35:55-7-2. Pet health history provided to purchaser; sale of unhealthy pets**

(a) At the time of the sale, commercial pet breeders shall provide to purchasers of pets a written disclosure of all treatments involving immunizations, medications, anthelmintics (dewormers) and all other treatments for parasites, administered to the purchased pet thirty (30) days prior to the sale. The disclosure shall describe the pet and describe the product used, the dosage, and the medication or product administered to the animal.

(b) Commercial pet breeders shall not knowingly sell a diseased or sick pet without fully disclosing the pet's condition to the purchaser. At the time they offer a pet for sale, commercial pet breeders shall disclose to the purchaser whether the offered animal has any known diseases, defects, or health conditions.

(1) If, within ten (10) days after receipt of a pet by the purchaser, a veterinarian states, in writing, that the pet has an undisclosed health problem or disease which existed in the animal at the time of delivery, or if within one year after receipt of the animal by the purchaser, a veterinarian states, in writing, that the pet has died or is ill due to an undisclosed hereditary or congenital defect, or is not of the breed type represented, the pet shall be considered to have been unfit for sale at the time of sale.

(A) If the animal died, the purchaser shall provide necropsy and lab results to the commercial pet breeder.

(B) If the animal is ill, the commercial pet breeder may request an additional veterinary examination by

a veterinarian in the vicinity of the purchaser selected by the commercial pet breeder.

(C) If the animal is not of the breed type represented, the purchaser shall provide DNA analysis verifying the determination.

(2) A purchaser shall be entitled to return to the commercial pet breeder a pet that was unfit for sale and obtain full reimbursement of the purchase price, except that if the unfit pet has died within one year of delivery the purchaser may obtain a reimbursement of the purchase price without returning the pet upon providing proof that the pet has died.

(c) For purposes of cost reimbursement under this section, purchaser, as defined in subsection (b) of this section, shall include the consumer who ultimately purchases the pet if the commercial pet breeder sells the pet to an intermediary or retailer if consumer obtains a veterinary statement indicating that the pet had pre-existing health problems, as described in subsection (b), and if the commercial pet breeder failed to disclose the pre-existing health problems to the intermediary that purchased the pet from the commercial pet breeder. In such case, recovery would be limited to the price paid to the commercial pet breeder. Commercial pet breeders shall not be liable to consumers if they disclose pre-existing health problems to the intermediary or retailer that ultimately sells the pet to the consumer.

**35:55-7-3. Sales invoice or statement**

At the time of the sale, the commercial pet breeder shall provide the purchaser a sales statement in which the commercial pet breeder shall describe the pet, list the date of the transaction, the sales price, the name of the purchaser, the location of the sale and the method of delivery, the commercial pet breeder's license number where applicable, and list any health problem disclosures made to the purchaser. If the commercial pet breeder transports or otherwise ships the pet to the purchaser, the commercial pet breeder shall list the purchaser's address on the sales statement

**35:55-7-4. Location of sales**

(a) Commercial pet breeders shall not market or sell or offer to sell any pets in retail parking lots or public parking lots, from the side of any road, or from any location that the person does not own if the person has not obtained the proper permit or credentials to sell from such location.

(b) Notwithstanding the foregoing, if while located at a location from which the commercial pet breeder may legally sell products the commercial pet breeder communicates with a purchaser, through phone, fax, email, or other form of communication, and agrees to sell and deliver a pet to a purchaser, the commercial pet breeder may deliver the sold pet to the purchaser to any location upon which the commercial pet breeder and purchaser agree.

**35:55-7-5. Prohibition on the purchase, sale, or transportation of stolen pets**

No Licensee shall buy, sell, or transport any stolen pet.

**35:55-7-6. Other requirements or acts prohibited**

Commercial pet breeders shall comply with all applicable state and federal laws, municipal ordinances, and reasonable requirements of the Board.

*[OAR Docket #12-836; filed 7-3-12]*

**TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION  
CHAPTER 30. DEPARTMENT OF WILDLIFE LANDS MANAGEMENT**

*[OAR Docket #12-831]*

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1. Use of Department Managed Lands  
800:30-1-7. Livestock and feral hogs [AMENDED]

**AUTHORITY:**

Title 29 O.S., Sections 3-103 and 5-401 Article XXVI, Sections 1 and 3 of the constitution of Oklahoma; Department of Wildlife Conservation Commission.

**DATES:**

**Adoption:**

March 5, 2012

**Approved by Governor:**

April 13, 2012

**Effective:**

Immediately upon Governor's approval

**Expiration:**

Effective through July 14, 2013, unless superseded by another rule or disapproved by the legislature.

**SUPERSEDED EMERGENCY ACTION:**

n/a

**INCORPORATED BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The emergency rule will provide additional recreational opportunity for horseback trail riders on wildlife management areas for the fall of 2012.

**ANALYSIS:**

The purpose of this rule is to provide increased opportunity for horseback riding on Wildlife Management Areas.

**CONTACT PERSON:**

Wade Free, Assistant Director, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, Ok 73105. Phone: 405/521-4660 or Rhonda Hurst, APA Liaison, Phone: 405/522-6279.

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

**SUBCHAPTER 1. USE OF DEPARTMENT MANAGED LANDS**

**800:30-1-7. Livestock and feral hogs**

(a) **Livestock.** It is unlawful for any person to willfully or neglectfully allow unauthorized livestock to encroach upon any lands owned or managed by the Oklahoma Department of Wildlife Conservation.

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(b) **Horses.** No person shall ride, drive, lead or keep a horse or other livestock on lands owned or managed by the Oklahoma Department of Wildlife Conservation, except Honobia Creek WMA and Three Rivers WMA, during the period of October 1 through January 1 and spring turkey season, annually without prior written approval from the Oklahoma Department of Wildlife Conservation. Individuals or parties of less than 25 may ride on areas with prior written approval of the local biologist during the closed period if no hunting ~~seasons are in progress.~~ conflict is determined by the biologist. U.S. Forest Service regulations shall apply to those lands owned by the Forest Service. See 800:25-7-71 [REVOKED] (renumbered to 800:30-1-20) also.

(c) **Use of horses.** Hunting on, from or with the aid of horses or mules on WMAs (except U.S. Forest Service lands, Honobia Creek WMA and Three Rivers WMA) is prohibited during daylight hours during the period of October 1 - January 1 and during spring turkey season. Persons holding nonambulatory permits or motor vehicle permits are exempt.

(d) **Feral hogs.** Feral hogs may be taken on lands owned or managed by the Oklahoma Department of Wildlife Conservation during any established hunting season with methods authorized by the Department for that hunting season.

*[OAR Docket #12-831; filed 6-28-12]*

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# Permanent Final Adoptions

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

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

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

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

## TITLE 75. ATTORNEY GENERAL CHAPTER 15. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS

*[OAR Docket #12-829]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

75:15-1-1.1. Mission and underlying philosophy [AMENDED]

75:15-1-2. Definitions [AMENDED]

Subchapter 2. Domestic Violence and Sexual Assault Programs

75:15-2-1. Service programs [AMENDED]

75:15-2-2. Shelter program [AMENDED]

75:15-2-3. Transitional living program [AMENDED]

75:15-2-4. Safe Home program [AMENDED]

Subchapter 5. Client Records and Confidentiality

75:15-5-3. Record content - general [AMENDED]

75:15-5-3.1. Record content - service specific [AMENDED]

Subchapter 7. Physical Environments

75:15-7-1. Physical plant, primary role [AMENDED]

75:15-7-5. Persons with special needs [AMENDED]

75:15-7-6. Program environment [AMENDED]

75:15-7-9. Program environment, transitional living services program [AMENDED]

Subchapter 13. Personnel and Volunteers

Part 1. Personnel

75:15-13-1. Personnel policies and procedures [AMENDED]

Subchapter 17. Client Rights, Domestic Violence, Sexual Assault Programs and Shelters

75:15-17-3. Client rights [AMENDED]

### AUTHORITY:

Office of Attorney General; 74 O.S., Sections 18p-1 et seq.

### DATES:

#### Comment Period:

February 15, 2012 through March 21, 2012

#### Public Hearing:

March 21, 2012

#### Adoption:

March 30, 2012

#### Submitted to Governor:

March 30, 2012

#### Submitted to House:

March 30, 2012

#### Submitted to Senate:

March 30, 2012

#### Gubernatorial Approval:

May 4, 2012

#### Legislative Approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 24, 2012

#### Final Adoption:

May 24, 2012

#### Effective:

August 11, 2012

#### SUPERSEDED EMERGENCY ACTIONS:

n/a

### INCORPORATIONS BY REFERENCE:

n/a

### ANALYSIS:

Pursuant to Title 74 O.S. § 18p-6, the Attorney General is required to adopt and promulgate rules and standards for certification of domestic violence programs and for private facilities and organizations which offer domestic violence, sexual assault and stalking services in this state. These rules set forth the requirements which are necessary to provide services pursuant to 74 O.S. § 18p-1 et seq. and to meet the responsibilities related to oversight, management, evaluation, performance improvement, and auditing of domestic violence and sexual assault services. Amendments are necessary to comply with the Family Violence Prevention Services Act (FVPSA) which now requires states that receive FVPSA funds to institute domestic violence and sexual assault service approaches that reflect voluntary services and emphasize the self-determination of the victim, in a trauma-informed environment. The definitions for "sexual assault" and "stalking" were also added. Service components and records content were rearranged for clarification. Additionally, language was added to ensure all programs will provide non-residential services. A correction was also made to requirements for transitional living programs to provide a commode, lavatory and bathing facility for clients.

### CONTACT PERSON:

Lesley Smith March(405) 522-0042

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PERMANENT RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF AUGUST 11, 2012:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 75:15-1-1.1. Mission and underlying philosophy

(a) The mission of the standards and criteria for domestic violence and sexual assault programs, ~~including programs serving adult victims of sex trafficking~~, is to eliminate domestic violence, sexual assault, ~~sex trafficking~~ and stalking in the State of Oklahoma.

(b) The philosophy underlying the standards and criteria for domestic violence, ~~and~~ sexual assault, ~~and batterers intervention programs, including programs that serve victims of sex trafficking and stalking~~, is that:

- (1) All persons have the right to live without fear, abuse, oppression and violence;
- (2) There should be equality in relationships and survivors of domestic violence, sexual assault and stalking should be helped to assume power over their own lives;
- (3) No one deserves to be victimized by assaultive or abusive behavior;

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- (4) Survivors should be treated with dignity and respect;
- (5) All people involved in violent crimes are affected victims, children, families, partners, friends, the community, and perpetrators;
- (6) Offending is a choice, and perpetrators of domestic violence, sexual assault, ~~sex trafficking~~ and stalking are solely responsible for their behavior;
- (7) These perpetrators must be held accountable for their behavior;
- (8) A coordinated community response is the best approach to eliminating domestic violence, sexual assault, sex trafficking and stalking in Oklahoma, and
- (9) Safety for the victims/survivors and their dependants is the primary focus of intervention and services.
- (10) Intervention and services shall be based upon the safety and well-being of individuals and communities. Services to victims are provided in a non-judgmental, non-coercive, trauma-informed environment.
- (11) Participation in victim/survivor services is voluntary and based on self-determined needs, preferences and values.

### 75:15-1-2. Definitions

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

**"Admission"** means to accept a client for services or treatment.

**"Advocacy"** means the assistance provided which supports, supplements, intervenes and/or links the clients and their dependents with the appropriate service components to encourage ~~self reliance~~ self-determination, autonomy, physical and emotional safety, and ~~provide to offer~~ information that will enable independence. This can be viewed as a combination of active listening and facilitating personal problem solving along with researching options of action, safety planning, community outreach and education and include medical, dental, financial, employment, legal and housing assistance.

**"Advocate"** means a person, ~~providing support to ensure who offers~~ clients receive appropriate services.

**"Assessment"** means an appropriate course of assistance based on a face-to-face formal screening.

**"Batterer"** means a person, male or female, who perpetrates domestic violence, stalking or other harassment against present or past intimate partners, another adult, emancipated minor or minor child, who are family or household members or who are or were in a dating relationship.

**"Batterers intervention"** means services provided to batterers, or perpetrators of domestic violence that hold a batterer accountable for his or her abusive behavior, provide consequences for engaging in violent or abusive behavior, provide monitoring of batterer's behavior, and require him or her to change his or her behavior and attitudes and are also protective of the victim(s). Anger control or management, substance abuse treatment or mental health treatment alone or in combination with each other shall not constitute batterers intervention; neither may these interventions alone nor in

combination with each other be utilized as the primary means of facilitating the required changes in behavior and attitudes.

**"Behavioral Health Professional"** means either licensed or under supervision for licensure as a Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. A practicum student or intern in an accredited graduate program in preparation for one of the above licenses may provide counseling to victims of domestic violence, sexual assault or stalking and their dependents.

**"Business day"** shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 o'clock p.m. of the next business day.

**"Case consultation"** means review of a client's case by the primary service provider and other program personnel, consultants or both.

**"Case management"** means the process of supporting and helping victims/survivors and their dependents as they cope with and overcome the effects of domestic violence, sexual assault and stalking. Actions may include activities such as 1) developing, reviewing, and updating the service plan that is designed to solve specific problems in the current life situation; 2) supporting adult/child survivor's skills in making their desired life changes through activities such as introducing new skills, modifying previous ways of coping with their situation and linking to resources to address immediate needs and secondary issues, and/or 3) exit planning as part of the individual supportive services. The service provider must be a Certified Domestic and Sexual Violence Response Professional (CDSVRP) certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

**"Certified batterer intervention program"** means a status which is granted to an entity by the Oklahoma Attorney General, and indicates approval to provide batterers intervention services and treatment programs pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

**"Certified Domestic and Sexual Violence Response Professional"** means a professional certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

**"Certified domestic violence and sexual assault program"** or **"Certified DV/SA program"** means a status which is granted to an entity by the Oklahoma Attorney General, and indicates approval to ~~provide offer~~ domestic violence, sexual assault and stalking services pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

**"Child"** or **"Children"** means any individual from birth to eighteen years of age.

**"Children's Activities"** means direct child contact that is temporary in nature and is not intended to address the effects of domestic violence, sexual assault/abuse and trauma on children i.e., child care, special events such as Christmas parties,

Easter egg hunts, that is supervised by program personnel or volunteers.

**"Children's Services"** means direct child contact that is intended to address the effects of domestic violence, sexual assault/abuse and trauma on children including but not limited to intake, needs assessment, groups, advocacy and any other service related to domestic violence, sexual assault/abuse and trauma.

**"Client"** means an individual, adult or child, who has applied for, is receiving or has received assistance or services of a DV/SA or batterer's program.

**"Client record"** includes but is not limited to, all communication, records and information on an individual client.

**"Community"** means people, groups, agencies or other facilities within the locality served by the program.

**"Contract"** means a formal document adopted by the governing authority of the program and any other organization, agency, or individual that specifies services, personnel or space to be provided to the program and the monies to be expended in exchange.

**"Counseling"** means a face-to-face therapeutic session with one-on-one interaction between a behavioral health professional and an individual to promote emotional and/or behavioral change focused on victim safety and perpetrator accountability. Those individuals providing professional therapy to adult/child victims/survivors of domestic violence/sexual assault and stalking must be prepared to provide offer education and information about:

- (A) ~~Safety~~ Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions;
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior, and the role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion and national origin.

**"Court advocate"** means a qualified, trained staff or volunteer whose duties are to provide offer assistance to victims and any dependents in legal matters relevant to their situation. A Court Advocate provides court advocacy through support, information, assistance, safety planning, accompaniment and intervention with any aspect of the civil or criminal legal system on behalf of a victim of domestic violence, sexual assault or stalking.

**"Crisis intervention"** means services based upon a problem-solving model to provide offer information and referrals that assist an individual domestic violence, sexual assault or stalking victim/survivor in crisis. Crisis intervention services include but are not limited to assessing dangerousness, safety planning, information about available legal remedies, establishing rapport and communication, identifying major problems, exploring feelings and providing support, exploring

possible alternatives, and/or formulating an action plan and follow-up measures.

**"Critical incident"** means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients, personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

**"Cultural diversity"** means the spectrum of differences that exists among groups of people with definable and unique cultural backgrounds.

**"Direct services"** means services delivered by a qualified staff member or volunteer, in direct contact with a client or client's child, including child care and telephone contact.

**"Director"** means the person hired by the governing authority to direct all the activities of the organization.

**"DV/SA"** means domestic violence and sexual assault.

**"Documentation"** means the provision of written, dated and authenticated evidence to substantiate compliance with standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, records, policies, procedures, announcements, correspondence, and photographs.

**"Domestic violence"** means assaultive or coercive behaviors, including physical, sexual and psychological attacks and economic coercion, against another adult, emancipated minor or minor child, who are family or household members or who are or were in a dating relationship.

**"Education"** means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of the community concerning domestic violence, sexual assault or batterer's intervention and other related problems and services and may include a systematic presentation of selected information to impart knowledge or instructions, to increase understanding of specific issues or programs, to examine attitude or behaviors and stimulate social action or community support of the program and its clients.

**"Emergency services"** or **"crisis services"** means a twenty-four (24) hour capability for danger assessment, intervention and resolution of a client crisis or emergency that is provided in response to unanticipated, unscheduled emergencies requiring prompt intervention.

**"Emergency transportation"** means transportation for a victim of DV/SA to a secured identified location at which emergency services or crisis services can be provided offered.

**"Executive director"** means the person in charge of a facility as defined in this section.

**"Facility"** means the physical location(s) of a certified program governed by this chapter of Title 75.

**"Family"** means the children, spouse, parents, brothers, sisters, other relatives, foster parents, guardians and others who perform the roles and functions of family members in the lives of clients.

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**"Governing authority"** means a group of persons having the legal authority, and final responsibility for the operations and functions of the entire DV/SA program, or shelter, in and of all geographical locations and administrative divisions.

**"Group counseling"** means a face-to face therapeutic session with a group of adult/child victims/survivors to promote emotional or behavioral change. Those individuals providing professional therapy to victims/survivors of domestic violence must be prepared to provide education and information about:

- (A) ~~Safety~~Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions;
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior, and the role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion or national origin.

**"Guardian"** means an individual who has been given the legal authority for managing the affairs of another individual.

**"Indirect services"** means services delivered by a staff member or volunteer, that does not involve direct services with a client or client's child.

**"Initial contact"** means a person's first contact with the program or facility requesting information or service by telephone or in person.

**"Intake"** means an interaction intended to discover what has happened, determine what the crisis is, assess dangerousness indicators, do safety planning, and/or establish the immediate needs of domestic violence/sexual assault & stalking victims and any dependents to determine appropriate services and referrals. This includes interaction with an individual determined to be appropriate for ongoing service in order to obtain basic demographic information, gather vital information on the adult and the children, orient the victim/survivor to the program, program rules, and if applicable, the facilities. Cultural needs should also be identified at this time.

**"Language Interpretation"** means activities that involve a client who is deaf or hearing impaired or has limited English proficiency requiring an interpreter for a staff member or volunteer to ~~provide~~offer services.

**"Licensure"** means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

**"Medical care"** means those diagnostic and treatment services which can only be provided or supervised by a licensed physician.

**"Medication"** means any prescription or over-the-counter drug, that is taken as prescribed or directed.

**"Mental health services"** means a range of diagnostic, therapeutic, and rehabilitative services used in treating mental illness or emotional disorders.

**"Neglect"** means failing to ~~provide~~offer adequate personal care or maintenance, or access to medical care which results or may result in physical or mental injury or harm to a client.

**"OAG"** means the Office of the Attorney General.

**"Objectives"** means a specific statement of planned accomplishments or results which are quantitative, qualitative, time-limited and realistic.

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

**"Operation"** means that clients are receiving services ~~provided~~offered by the program.

**"Personnel record"** means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

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

**"Policies"** means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

**"Primary Victim"** means a client who has experienced domestic violence, sexual assault, stalking or the consequences of these crimes first hand.

**"Procedures"** means the standard methods by which policies are implemented.

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

**"Program evaluation"** means the documented assessment activities, performed internally or externally, of a program or a service and its staff, volunteers, activities and planning process to determine whether program goals are met, staff, volunteers and activities are effective, and what effect, if any a program or service has on the problem which it was created to address or on the population which it was created to serve.

**"Program goals"** means broad general statements of purpose or intent.

**"Qualified staff"** means someone who has met the criteria for provision of direct services as defined in 75:15-13-20.

**"Rape crisis response services"** means "sexual assault services" as defined in this section.

**"Release" or "Waiver"** means consent that is informed, written and reasonably time-limited. The terms may be used interchangeably to mean the same thing. "Release" implies that confidential information is released (despite confidentiality or privilege protection), and "Waiver" implies waiving

the right (to maintain privilege). If release of information is compelled by statutory or court mandate, the program shall make reasonable attempts to provide notice to victims affected by the disclosure of information and take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

**"Referral"** means information disseminated and/or coordinated access to agency and community services to meet victims'/survivors' and their dependents' identified needs.

**"Safe Home"** means private dwellings available for the temporary housing of victims of domestic violence, sexual assault and stalking to ensure safety of victims and any dependents until other housing arrangements can be made.

**"Safe Home Provider"** means an individual or family providing Safe Home services through a formal agreement with a Certified DV/SA Program.

**"Safety Planning"** means the process of working with the adult/child victim/survivor to develop tools in advance of potential abuse or violence for the immediate and long term safety of the victim/survivor. The plans should be based on the individual's dangerousness indicators and should include the safety needs of dependents.

**"Screening"** means the process of determining, preliminarily the nature and extent of a person's problem in order to establish the service needs of an individual. At a minimum, a screening shall include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

**"Secondary Victim"** means a person with a relationship with the primary victim.

**"Service agreement"** means a written agreement between two or more service agencies or service agencies and individual service providers defining the roles and responsibilities of each party. The purpose of service agreements is to promote coordination and integration of service programs for the purpose of curbing fragmentation and unnecessary service duplication in order to assure a continuation of services.

**"Service note"** means the documentation of the time, date, location and description of services offered or provided, and signature of staff or volunteer offering or providing the services.

**"Service plan"** means a plan of action developed and agreed upon by the client and service provider that contains service appropriate goals and objectives for the client.

**"Sexual Assault"** means a range of behaviors, including but not limited to rape, attempted rape, sexual battery, sex trafficking, sexual abuse of children, sodomy and sexual harassment.

**"Sexual assault services"** means personal advocacy and support services provided to primary and secondary victims of rape and sexual assault in settings such as law enforcement, medical settings or program offices.

**"Shelter services"** means a residential living arrangement in a secure setting with support and advocacy services provided by qualified staff, for victims of domestic violence, sexual assault and stalking and their dependents.

**"Staff"** means personnel that function with a defined role within the program whether full-time, part-time or contracted.

**"Stalking"** means a course of conduct directed at a specific person that would cause a reasonable person to feel fear.

**"Substance Abuse services"** means the assessment and treatment of diagnosable substance abuse and dependence disorders, as defined by current DSM criteria, by qualified alcohol and drug treatment professionals.

**"Support" or "Supportive Services"** means services provided to victims of domestic violence/sexual assault and/or their families which augment or complement a defined service plan, the provision of direct services to victims and their dependents for the purposes of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence.

**"Transitional living services"** means temporary, independent living programs with support services provided by the staff or volunteers of the sponsoring domestic violence, sexual assault and stalking program. These services are extensions of domestic violence shelter services to victims of domestic violence, sexual assault and/or stalking and their dependents. These services permit victims to develop their financial capacity and other means to live independently.

**"Trauma-informed services"** means a service approach that recognizes the impact of trauma and acknowledges the role of trauma in the lives of victims/survivors and their dependents.

**"Universal precautions for transmission of infectious diseases"** means those guidelines promulgated by the U.S. Occupational Health and Safety Administration which are designed to prevent the transmission of Human Immunodeficiency Virus, hepatitis and other infectious diseases.

**"Update"** means a dated and signed review of a report, plan or program with or without revision.

**"Victim recovery services"** mean a face-to-face service, provided one on one by qualified staff to groups or individuals to maintain or develop skills necessary to perform activities of daily living and successful integration into community life. This service includes educational and supportive services regarding independent living, self care, and social skills regarding development and lifestyle changes.

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

### SUBCHAPTER 2. DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS

#### 75:15-2-1. Service programs

(a) All certified programs shall serve residential and non-residential victims of domestic violence, sexual assault and stalking and their dependents or family members.

(b) The program shall develop a philosophy of service provision based upon voluntary services and individual self-determination. The written statement of the philosophy of services

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shall be approved by the governing authority and made available to the community, staff, volunteers and clients.

(c) The program shall have policy and procedures to maintain facilities, staffing, and operational methods, including a policy on the recruitment of board members, staff and volunteers who are representative of the diversity in the local community and the diversity of their clients.

(ed) All certified programs shall provide sexual assault services and be part of a sexual assault response team in their service area, providing that there is a sexual assault response team in place. The program shall collaborate with other certified DV/SA providers in their service area. When appropriate staff or volunteers are available, the program shall assist the Council on Law Enforcement Education and Training (CLEET) by providing appropriate staff or volunteers to assist in sexual assault and sexual violence training to law enforcement. The program shall provide offer at a minimum the following services:

(1) Counseling or advocacy and support services shall be provided offered in the social service, legal, law enforcement or medical setting, in program offices or at any safe and appropriate site, as needed by the client.

(2) Twenty four (24) hours, seven (7) days per week access to these services through the program's crisis hotline.

(3) A twenty-four (24) hour hotline, crisis intervention, in-person advocacy as needed, active listening, or support by trained staff or volunteers with a knowledge of the issues and processes of sexual assault, rape trauma recovery, assessment, referral when indicated and family involvement where chosen by the victim.

(4) Needed clothing for the sexual assault victim.

(5) Follow-up contact that does not compromise privacy and safety needs of the victim shall be offered to all sexual assault clients seen in the medical setting. If written permission is granted by the client for follow-up contact, it shall be done no later than fourteen (14) business days after face-to-face crisis intervention. Follow-up will offer the client agency services or other available resources needed by the client.

(de) All certified programs shall provide offer crisis intervention services including, but not limited to:

(1) Twenty-four (24) hour crisis telephone services staffed by trained staff or volunteers, 24-hour immediate, direct access to crisis advocates. Pagers, answering machines or answering services that do not provide offer immediate access to a crisis advocate shall not be sufficient to meet this requirement.

(2) Emergency housing such as hotel or motel available for victims and their dependent(s).

(3) Arrangement for safe shelter, food, clothing, and incidentals needed by victim/dependents.

(4) The crisis intervention program shall provide emergency transportation or access to transportation for necessary or emergency services. This shall not require service providers to be placed in a situation that could result in injury.

(5) Cooperation with law enforcement to provide offer assistance to the victim and accompanying dependent(s).

Programs should ensure victims are educated about participating in the legal prosecution of their offender and that an appropriate release or waiver may be necessary.

(6) Provision of advocacy and referral to assist the victims in obtaining needed services or resources.

(7) Foreign language interpretation.

(8) Follow-up services shall be offered to all victims if victim safety is not compromised.

(ef) All certified programs shall provide offer counseling or support, support groups, advocacy, and victim recovery. Group and/or individual counseling or support services shall be made available before or after normal business hours (8 am to 5 pm), if needed by clients. These services shall minimally provide offer the following:

(1) A facility with offices, individual and group counseling space to provide offer services.

(2) Advocacy services, both in person and by telephone, either in the locations of other community services and systems, or in the program's offices. Other locations include but are not limited to those necessary to provide court advocacy services to clients.

(3) Current service agreement to be renewed every three (3) years with available community services to provide offer access to a continuum of needed services for the client. If unable to establish a current service agreement with all appropriate resources in the community, efforts to do so or reasons/opinions why this is not or cannot be done shall be documented.

(4) A resource document of local, area, or state resources to facilitate referrals for clients.

(5) Service approaches that focus on the empowerment of victims to access needed resources and make healthy and safe decisions for themselves and dependents.

(6) For agencies that do not have a behavioral health professional on staff, the agency shall maintain an updated list of identified behavioral health professionals in their community who treat clients with sexual assault related trauma who need additional mental health or substance abuse services.

~~(f) All certified programs are required to conduct a name search of employees at least annually against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act while such person is working with or serving children. All persons working with or providing services to children shall be required to sign a statement declaring that he or she is not currently required to register under the provisions of the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act. Compliance with the signed statement shall be mandatory for all persons working with or providing services to children, and there shall be no liability or obligation placed upon any person or business to ascertain the truthfulness of the affidavit.~~

(g) Within five (5) business days of entry into ~~shelter or transitional living or prior to providing children's residential~~ services (excluding advocacy or children's activities or crisis intervention), all certified programs shall offer to assess the risk and needs of the children accompanying primary victims

and ~~provide~~offer children's services to address the impact of violence and trauma in their lives and to facilitate healing. A risk and needs screening and assessment on each child, when accepted, shall minimally include information on his or her:

- (1) Safety, including but not limited to:
    - (A) History of child abuse or neglect;
    - (B) Exposure or witnessing violence;
    - (C) Child's response to witnessing violence;
    - (D) History of involvement in the child welfare system; including the presence of current child welfare involvement;
    - (E) Visitation with the perpetrator;
  - (2) Brief trauma screening to assess the impact of trauma;
  - (3) Developmental history to include speech and language, hearing and visual;
  - (4) Medical or physical health history;
  - (5) Social history to include interactions with peers;
  - (6) History of use of tobacco, alcohol or other drugs;
  - (7) Parent/guardian custodial status;
  - (8) Community referral needs.
- (h) Services provided to each child shall be culturally sensitive while addressing ~~the identified risks~~ and needs and shall minimally include:
- (1) safety planning that is appropriate with respect to the child or adolescent's age, development, and education;
  - (2) a specific safe, protected play area for children;
  - (3) advocacy with community systems;
  - (4) referral to community resources for needed services;
  - (5) linkage and advocacy with the local school system to provide for ongoing educational needs;
  - (6) parenting support for clients, if applicable; and
  - (7) Children's groups using age appropriate topics and based on established best practices.
- (i) Pursuant to Title 10A O.S. § 1-2-101, any person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect, shall report the matter promptly to the Department of Human Services.
- (j) All certified programs shall maintain an atmosphere and ~~provide~~offer services that are free from all forms of unlawful discrimination based on race, sex, religion, color, age, national origin, and/or disability (i.e., physical, mental illness, and substance abuse), including a policy that services to immigrant women will not be denied or diminished on the basis of immigration status.
- (k) All certified programs shall ~~provide~~offer public education to increase the community's awareness and understanding of domestic violence, sexual assault and stalking, available and needed resources, and identify the role community can play in eliminating domestic violence, sexual assault, and stalking.
- (l) Compliance with 75:15-2-1 shall be determined by a review of the program's policy and procedures, service agreements, on site observation, client and staff or volunteer interviews and/or other supporting documentation.

**75:15-2-2. Shelter program**

- (a) All shelter programs shall comply with section 75:15-2-1 and each shelter program shall provide long-term (thirty [30] days or more) shelter services and staffing to ~~provide~~offer services twenty-four (24) hours per day, seven (7) days per week and ~~provide~~offer the following services:
- (1) A group living program providing room, board, bathing and laundry facilities, necessary clothing and toiletries for victims and their children.
  - (2) Shelters shall be staffed at all times when clients are in residence. When there are no clients in residence, each shelter program must assure availability for immediate contact or services.
  - (3) The shelter's policy shall have written procedures regarding the supervision of children.
  - (4) In the event the shelter does not ~~provide~~offer services to clients with dependent boys over the age of twelve, the shelter shall have written policies regarding linkage to alternative provision of services including emergency shelter.
  - (5) Shelter programs shall ~~provide~~offer screening, referral and linkage to clients and callers to appropriate community resources, to include assistance in making initial contact.
  - (6) The shelter program shall maintain cooperation/liason with the local school system.
  - (7) Each shelter program must ensure to the best of ~~their~~its ability the physical and emotional safety, security, and confidentiality of clients and the location of the shelter.
  - (8) The shelter shall maintain a written policy for involuntary dischargeexit criteria.
- (b) Compliance with 75:15-2-2 shall be determined by a review of policy and procedures, service agreements, on site observation, and/or other supporting documentation.

**75:15-2-3. Transitional living program**

- (a) All transitional living programs shall comply with 75:15-2-1 and the following:
- (1) The program shall maintain homes, apartments, or other residential living environments suitable for survivors of domestic and sexual violence, stalking and their dependents, if applicable, and which provide the reasonable safety and privacy needed by this population. The program shall ~~provide~~offer access to necessary furniture and equipment.
  - (2) The program shall include heating and refrigerated cooling systems to maintain a reasonable comfort level.
  - (3) Supportive services for residents are available through the twenty-four (24) hour program hotline by trained staff or volunteers.
  - (4) The program shall assign staff or a volunteer as the advocate or liaison for the clients residing in the transitional living program(s). This person, or a crisis line staff person or volunteer, shall be available for emergencies at all times.

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(5) The program shall have a written agreement with each resident that outlines specific responsibilities of both the program and the resident to include expectations, responsibilities, and limitations. The agreement shall be signed by both parties.

(6) The program shall offer weekly support groups for transitional living residents and children.

(7) The program shall offer at least one 30 minute face to face service contact per week with each transitional living residents and children.

(b) Compliance with 75:15-2-3 shall be determined by a review of program policy and procedures, client records, on-site observation, written agreements and/or other supporting documentation.

### 75:15-2-4. Safe Home program

(a) All Safe Home programs shall comply with section 75:15-2-1 and the following:

(1) The program shall ~~provide~~offer confidential housing 24 hours a day, 365 days a year.

(2) Certified DV/SA providers that have a formal agreement for a Safe Home shall:

(A) assure that each Safe Home ~~provides~~offers residents with access to minimum necessities including bedding, clothing, articles for grooming and personal hygiene, and food;

(B) develop and disseminate to Safe Home providers and residents written rules, policies and procedures that include admission and exit criteria including security measures;

(C) have written procedures for monitoring Safe Homes to ensure that the homes meet standards for cleanliness and safety;

(D) ~~provide~~offer orientation to all clients and require they sign a contract acknowledging they have read and understand the rules of their stay;

(E) assign an advocate or liaison for clients. This person, or a crisis line staff or volunteer, shall be available for emergencies and support at all times; and

(F) ~~provide~~offer at least one 30 minute face-to-face service contact per week with each Safe Home resident.

(b) The program shall establish criteria to screen potential Safe Home providers. Screening will include an application with references, an interview, and a site visit. Each Safe Home will be reassessed annually.

(c) All Safe Homes must be supervised by the certified program who will conduct on-site observations at least monthly when clients are in residence.

(d) The certified program shall have a written agreement with each Safe Home provider that outlines specific responsibilities of both the program and the provider to include expectations and limitations (e.g., no babysitting or individual advocacy) and compliance with confidentiality. The agreement shall clearly state that the program will not be held liable for damage incurred by the Safe Home provider. Both parties will sign the agreement.

(e) Compliance with 75:15-2-4 shall be determined by a review of program policy and procedures, client records, on site observation, written agreements, and/or other program documentation.

## SUBCHAPTER 5. CLIENT RECORDS AND CONFIDENTIALITY

### 75:15-5-3. Record content - general

(a) Client records for both residential and non-residential clients shall contain, at a minimum, the following information:

(1) Intake and screening information:

(A) Client's name;

(B) Date of initial contact/intake;

(C) Pertinent medical information, including substance abuse;

(D) Emergency contact information;

(E) History/nature of abuse including dangerousness assessment and screening for stalking and trauma including a description of the event that precipitated the request for services and safety planning, and

(F) Perpetrator information if known.

(2) Service notes, which shall minimally include:

(A) The date, location, start time, duration and description of services provided delineated by time spent and service code;

(B) The signature of staff or volunteer providing the services, and

~~(3) Service plan focusing on victim safety and, well-being which shall minimally include:~~

~~(A) Goals and objectives of the client, which shall be developed and agreed upon between the client and staff or volunteer, and~~

~~(B) Service plans and their updates shall be signed and dated by the client and staff or volunteer.~~

(4) Exit information, which shall minimally include:

(A) Documentation that the client participated in planning for his or her exit from the program;

(B) The reasons for the client's exit or departure; and

(C) Client and staff or volunteer dated signatures or an explanation if staff or the volunteer were unable to obtain the client's signature.

(b) Each client record entry shall be legible, dated, and signed by the staff member or volunteer making the entry.

(c) Compliance with 75:15-5-3 shall be determined by a review of program policy and procedures; review of the client records for content; and/or other supporting program documentation.

### 75:15-5-3.1. Record content - service specific

(a) Client records for specific services shall conform to the following:

(1) Shelter Services:

- (A) On a client's entry to the shelter, staff or volunteer shall record the client's name, emergency contact person(s) and any referral for medical or emergency services. This information may be a part of the full intake interview if the full intake is done on entering the shelter. An evidence-based, dangerousness assessment and safety planning shall also be done at this time.
- (B) Shelter clients shall have the full intake interview and screening completed within forty-eight (48) hours of entry into the shelter.
- (C) Service plans shall be completed within five (5) business days of the shelter client's entry to the shelter.
- (D) The service plan shall be reviewed and updated at least every two (2) weeks.
- (E) The client's service plan shall include components which address the needs of each child accompanying the client.
- (F) The service plan shall include safety issues for client and children.
- (G) A daily note.
- (2) Crisis Intervention Services:
  - (A) All face-to-face contacts with active clients are documented and contacts with persons not receiving additional services shall be documented. Documentation shall minimally include the following:
    - (i) Staff/Volunteer Name and signature;
    - (ii) Date, time, length, and location of intervention;
    - (iii) Client's name, age, race, county of residence, and contact number if given.
    - (iv) Protective order information if applicable;
    - (v) Personnel involved such as police, hospital, etc.;
    - (vi) Summary of contact including visible injuries, treatment and services requested;
    - (vii) Outcome;
  - (B) All telephone contacts shall be documented. Documentation shall minimally include the following:
    - (i) Staff/Volunteer name;
    - (ii) Date, time and length of call;
    - (iii) Caller's name and contact number, if given; However, no caller shall be required to give a name, phone number or any other identifying information as a condition to receive information or domestic violence, sexual assault or stalking services;
    - (iv) Summary of the call including services needed;
    - (v) Outcome; and
    - (vi) Follow-up services offered if victim safety is not compromised.
  - (C) Contact information is kept by the crisis intervention program.
  - (D) Clients to be transported to shelter facilities shall be screened before the shelter referral is made. If the client is in immediate danger, or no safe housing

- is available, this screening may be initially waived. If the screening is waived, documentation shall reflect the reason(s) and the notification of such to the shelter.
- (3) Counseling, Support and Advocacy Services:
  - (A) An assessment of the client's needs shall be completed by the third (3rd) counseling or advocacy session.
  - (B) A service plan shall be completed by the fifth (5th) advocacy or counseling session.
  - (C) A service plan review and update shall be completed at least every six (6) months.
- (4) Sexual Assault Services:
  - (A) For victims who continue in support or counseling sessions, a service plan shall be developed by the fifth (5th) visit.
  - (B) Service plans shall be reviewed and updated at least every ninety (90) days.
- (5) Transitional Living Services:
  - (A) A service plan including safety issues for the client and dependents shall be developed within five (5) business days of the client moving in.
  - (B) The service plan shall be reviewed and updated at least every ninety (90) days.
- (6) Safe Home Services
  - (A) A service plan that includes goals agreed upon by the client and sponsoring family shall be developed within five (5) business days of the client moving in. On a client's entry to the Safe Home, the safe home provider shall record the client's name, emergency contact information, and pertinent medical information.
  - (B) Safe Home clients shall receive a full intake interview and screening by program staff or volunteer within twenty-four (24) hours of admission or by the first business day following admission.
  - (C) A service plan shall be developed within five (5) business days of the client's entry to the Safe Home.
  - (D) All records regarding the client shall be retained in the client's record at the sponsoring program.
- (b) Where required information is not obtained, efforts to comply with the requirements of this subsection shall be documented in the client record.
- (c) Compliance with this 75:15-5-3.1 shall be determined by a review of client records, policy and procedures, call logs, and/or other supporting documentation.

**SUBCHAPTER 7. PHYSICAL ENVIRONMENTS**

- 75:15-7-1. Physical plant, primary role**
- (a) The primary role of programs is to ~~provide~~offer safety; and to protect the confidentiality and privacy of victims of domestic violence, sexual assault, stalking and their dependent family members. The physical plants of programs shall not be

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utilized in any manner which fails to guarantee the confidentiality, safety, and protection of the victims, their dependents and staff or volunteers.

(b) Facilities that serve both victims and batterers in the same facility shall have written procedures to ensure that its services do not jeopardize the safety and psychological well being of victims.

~~(c) Programs shall obtain written permission from the Office of the Attorney General Victims Services Unit before using any shelter or housing option, for purposes other than housing for victims of DV/SA.~~

(~~c~~) Compliance with 75:15-7-1 shall be determined by a review of program policies and procedures and a tour of the facility.

## 75:15-7-5. Persons with special needs

(a) Pursuant to the Americans with Disabilities Act of 1990, the program shall ensure that persons with disabilities are not excluded from services. Programs are required to integrate a person with a disability into agency services, unless providing separate services is the only way to ~~provide~~offer equal opportunities for services. Referrals must be ~~provided~~offered when necessary, and the program shall have written procedures for referrals of disabled persons who can not be served on-site. Service and companion animals should be allowed in facilities unless the animal poses a direct threat to the health/safety of others. Auxiliary aids/services should be ~~provided~~offered as necessary to ensure effective communication unless doing so would cause an undue burden (i.e., significant difficulty or expense) or fundamental alteration in services. Alterations to existing buildings must be accessible to the maximum extent feasible. All newly constructed facilities must be accessible to persons with disabilities unless it is structurally impractical. (Americans with Disabilities Act of 1990) Resource: Americans with Disabilities Handbook, published by (U.S.) Equal Employment Opportunities Commission, and the (U.S.) Department of Justice.

(b) Compliance with 75:15-7-5 shall be determined by a review of program policy and procedures.

## 75:15-7-6. Program environment

(a) The program environment shall meet the following conditions:

- (1) The facility shall be accessible by an all-weather road.
- (2) The facility shall have adequate space in which to carry out the program's goals and objectives, including outdoor areas and equipment when appropriate.
- (3) The facility shall have heating and air conditioning equipment adequate to maintain the temperature in areas utilized by clients at between 65°<sup>o</sup>F and 85°<sup>o</sup>F.
- (4) The facility shall have adequate ventilation and air circulation provided in the facility to assure an environment that will be comfortable for the clients.
- (5) The facility shall have water from an approved tested potable source.

(6) The facility shall have, at minimum, a commode and, lavatory facility. The privacy of individuals shall be assured while using these facilities.

(7) All doors, including those for each closet, bedroom, bathroom, and office, shall be easily opened from both sides.

(8) Smoking shall not be allowed in any indoor portion of any facility.

(9) Facility sanitation shall be maintained to prevent offensive odors and insect infestation.

(10) All facilities shall have emergency back up lighting.

(11) Telephones shall be provided for the convenience of the staff or volunteers, and the necessary accommodation of the clients. Pay telephones only are not acceptable.

(12) There shall be written policy and procedures addressing the use of any outdoor recreational space, including required supervision and the safety of ~~pre-school~~children.

(13) Toxic materials and dangerous substances, such as toxic cleaners, insecticides, and matches shall be stored in a non-client area, locked space where they are not accessible to children.

(14) Combustible materials shall be stored in locked non-flammable containers.

(15) The Poison Control Center's toll-free telephone number shall be posted and visible to staff, volunteers and clients at all times.

(b) Compliance with 75:15-7-6 shall be determined by a review of program policy and procedures, staff, volunteer and client interviews, and on-site observation.

## 75:15-7-9. Program environment, transitional living services program

(a) All transitional living services programs shall comply with section 75:15-7-6 (a) (1)-(10) and the following:

- (1) operable smoke detectors;
- (2) 24-hour access to a telephone for emergencies;
- (3) secured by double locks or locking devices such as chains, bolts, etc. which meets state and local fire code inspection; and
- (4) outdoor openings such as windows shall be covered for privacy.
- (5) the facility shall have, at minimum, a commode, lavatory and bathing facility at a ratio of one (1) for every eight (8) persons, including infants and children. The privacy of individuals or families shall be assured while using these facilities.

(b) Compliance with 75:15-7-9 shall be determined by a review of program policy and procedures, provider and client interviews where appropriate, and on-site observation.

## SUBCHAPTER 13. PERSONNEL AND VOLUNTEERS

### PART 1. PERSONNEL

**75:15-13-1. Personnel policies and procedures**

- (a) The program shall have written policies and procedures governing the conditions of agency employment to include appropriate screening and background inquiries to ensure client safety and confidentiality. Prior to employment and at least annually, all certified programs are required to conduct a name search of employees against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violence Crime Offenders Registration Act while such persons are working with or serving children.
- (b) The agency's policy and procedures shall be accessible to all personnel and each shall be informed of personnel policies and procedures, and any other materials regulating or governing the conditions of their employment.
- (c) Written policies and procedures shall ensure personnel are informed of any changes to these a fore stated materials.
- (d) Compliance with 75:15-13-1 shall be determined by a review of the program's personnel policies and procedures, interviews with staff and volunteers, review of staff meeting minutes and/or other supporting documentation.

**SUBCHAPTER 17. CLIENT RIGHTS, DOMESTIC VIOLENCE, SEXUAL ASSAULT PROGRAMS AND SHELTERS**

**75:15-17-3. Client rights**

- (a) Each client shall ~~have and enjoy~~ be afforded all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. Each program shall ensure each client has the rights which are listed below:
  - (1) Each client has the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity.
  - (2) Each client has the right to a safe, sanitary, and humane living environment.
  - (3) Each client has the right to a humane psychological environment protecting him or her from harm, abuse, and neglect.
  - (4) Each client has the right to an environment ~~which that~~ provides reasonable privacy, promotes personal dignity, and provides opportunity for the client to improve her or his functioning physical and emotional safety.
  - (5) Each client has the right to receive services suited to her or his needs without regard to his or her race, religion, sex, ethnic origin, age, degree of disability, ~~handicapping condition,~~ legal status, or ability to pay for the services.
  - (6) Each client, on admission, has the absolute right to communicate with a relative, friend, clergy, or attorney, by telephone or mail, at the expense of the program if the client is indigent.
  - (7) Each client shall have and retain the right to confidential communication with an attorney, personal physician, or clergy.

- (8) Each client has the right to uncensored, private communications including, but not limited to, letters and telephone calls. Copies of any personal letter, sent or received, by a client shall not be kept in her or his client record without the written consent of the client.
- (9) No client shall be neglected or sexually, physically, verbally, or otherwise abused.
- (10) Each client shall have the right to practice his or her own religious beliefs, and be afforded the opportunity for religious worship that does not infringe on the health or safety of others. No client shall be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief.
- (11) Each client has the right to be ~~provided with~~ offered prompt, competent, appropriate services and an individualized service plan.
  - (A) The client shall be afforded the opportunity to participate in her or his service plan.
  - (B) The client may consent, or refuse to consent, to the proposed services.
- (12) The records of each client shall be ~~treated as~~ confidential.
- (13) Each client has the right to refuse to participate in any research project or medical experiment without informed consent of the client, as defined by law. A refusal to participate shall not affect the services available to the client.
- (14) Each client has the right to assert grievances with respect to any alleged infringement of these stated rights of clients, or any other subsequently statutorily granted rights.
- (15) No client shall ever be retaliated against, or subject to, any adverse conditions or services solely or partially because of having asserted her or his rights as stated in this section.
- (16) Each client has the right to review his or her own records, or authorize his or her attorney or others to do so. However, where the program is providing the treatment of a mental health or substance abuse illness, the provisions of 43A O.S. § 1-109 and 42 CFR then apply. Each client also has the right that all information and records regarding him or her shall be treated as confidential.
- (17) Each client has the right to know why services are refused and can expect an explanation concerning the reason he or she was refused certain services.
- (b) Each client shall be given a copy of these rights and the provision of such shall be documented in the client record.
- (c) Programs shall have written policy and procedures to ensure each client ~~enjoys~~ is afforded, and has explained to him or her, these rights; and these rights are visibly posted in client areas of the facility.
- (d) The OAG, in any investigation or program monitoring regarding client rights, shall have unimpeded access to clients, program records and program staff or volunteers.

[OAR Docket #12-829; filed 6-28-12]

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## TITLE 75. ATTORNEY GENERAL CHAPTER 25. STANDARDS AND CRITERIA FOR BATTERERS INTERVENTION PROGRAMS

[OAR Docket #12-830]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

75:25-1-2. Mission ~~and underlying philosophy~~ [AMENDED]

75:25-1-2.1. Underlying philosophy [NEW]

75:25-1-3. Definitions [AMENDED]

Subchapter 3. Batterers Intervention

75:25-3-1. Batterers intervention program [AMENDED]

75:25-3-4. Record content [AMENDED]

75:25-3-6. Client record, handling, retention, and disposal [AMENDED]

75:25-3-13. Annual program evaluation [AMENDED]

75:25-3-15. Client rights [AMENDED]

75:25-3-16. Client grievance policy and procedures [AMENDED]

Subchapter 5. Personnel and Volunteers

Part 1. Personnel

75:25-5-3. Selection of personnel [AMENDED]

Subchapter 5. Personnel and Volunteers

Part 5. Training

75:25-5-19. Orientation - general, personnel and volunteers [AMENDED]

75:25-5-20. In-service and ongoing training for personnel and volunteers [AMENDED]

75:25-5-21. Personnel training, batterers intervention services [AMENDED]

### AUTHORITY:

Office of Attorney General, 74 O.S. § 18p-6

### DATES:

#### Comment Period:

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#### Public Hearing:

March 21, 2012

#### Adoption:

March 30, 2012

#### Submitted to Governor:

March 30, 2012

#### Submitted to House:

March 30, 2012

#### Submitted to Senate:

March 30, 2012

#### Gubernatorial Approval:

May 4, 2012

#### Legislative Approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 24, 2012

#### Final Adoption:

May 24, 2012

#### Effective:

August 11, 2012

### SUPERSEDED EMERGENCY ACTIONS:

n/a

### INCORPORATIONS BY REFERENCE:

n/a

### ANALYSIS:

The Office of Attorney General certifies batterers intervention programs (BIP) along with all domestic violence and sexual assault programs. Amendments are necessary to clarify the underlying philosophy and mission specific to batterers intervention programs, as opposed to domestic violence and sexual assault victim service programs. The program and personnel orientation training requirements have been overhauled to focus specifically on challenging batterer attitudes about power and control and violent and coercive behavior. Language was also added to guarantee that BIP groups focus on domestic violence for the entire 52 weeks, rather than substituting sessions for substance abuse or mental health treatment. Clarification is also necessary regarding reporting of absences in succession to the court. The service agreement requirements were re-worded to include other service types. The requirements for the individualized, written contract with the

batterer and the batterer Client Rights were also amended to explain that the batterer is not afforded confidentiality with the courts, current or past partners, victims, probation and parole, law enforcement, Coordinated Community Response Teams (CCRTs), anyone at risk of imminent harm from the batterer, or domestic violence victim services programs.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PERMANENT RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF AUGUST 11, 2012:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 75:25-1-2. ~~Mission and underlying philosophy~~

~~(a) The mission of the standards and criteria for batterers intervention programs is to eliminate domestic violence, sexual assault and stalking in the State of Oklahoma.~~

~~(b) The philosophy underlying the standards and criteria for domestic violence, sexual assault, and batterers intervention programs, including programs that serve victims of sex trafficking and stalking, is that:~~

~~(1) All persons have the right to live without fear, abuse, oppression and violence;~~

~~(2) There should be equality in relationships, and survivors of domestic violence, sexual assault and stalking should be helped to assume power over their own lives;~~

~~(3) No one deserves to be victimized by assaultive or abusive behavior;~~

~~(4) Survivors should be treated with dignity and respect;~~

~~(5) All people involved in violent crimes are affected, including victims, children, families, partners, friends, the community, and perpetrators;~~

~~(6) Offending is a choice, and perpetrators of domestic violence, sexual assault, sex trafficking and stalking are solely responsible for their behavior;~~

~~(7) These perpetrators must be held accountable for their behavior;~~

~~(8) A coordinated community response is the best approach to eliminating domestic violence, sexual assault, sex trafficking and stalking in Oklahoma, and~~

~~(9) Safety for the victims/survivors and their dependants is the primary focus of intervention and services.~~

### 75:25-1-2.1. Underlying Philosophy

(a) The philosophy underlying the standards and criteria for batterers intervention programs is that:

(1) Battering is primarily a sociocultural issue that is criminal in nature;

(2) Battering is never justified;

(3) Battering is not caused by disease, diminished intellect, alcoholism/addiction, intoxication, mental illness or any external person or event;

(4) Batterers are solely responsible for their actions and must be held accountable for their abusive behavior;

(5) The use of violence and coercion is a choice, decision or a tactic;

(6) No behavior of the victim causes or excuses domestic violence;

(7) Because batterers choose to use violence, they can also choose to stop violence and eliminate coercive control and other controlling tactics from their intimate relationships;

(8) Intervention services recognize that batterers can learn alternatives to violent and coercive behavior such as mutuality, shared decision making, trust negotiation and fairness, and

(9) Safety for the victims/survivors and their dependents is the primary focus of intervention and services.

(b) Although women can perpetrate violence against their partners, the vast majority of BIPs are addressing men's violence against women. Therefore, in this Chapter the male pronouns are used for batterers while female pronouns are used for the partners, except in the context wherein same-sex relationship violence or women's use of force is specifically discussed.

**75:25-1-3. Definitions**

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

"**Admission**" means to accept a client for services or treatment.

"**Assessment**" means an appropriate course of assistance based on a face-to-face formal screening.

"**Batterer**" means a person, male or female, who perpetrates domestic violence, stalking or other harassment against present or past intimate partners, another adult, emancipated minor or minor child, who are family or household members or who are or were in a dating relationship.

"**Batterers intervention program**" (**BIP**) means a status which is granted to an entity by the Oklahoma Office of the Attorney General. These services are provided to batterers, or perpetrators of domestic violence that hold a batterer accountable for his or her abusive behavior, provide consequences for engaging in violent or abusive behavior, provide monitoring of a batterer's behavior, and require him or her to change his or her behavior and attitudes and are also protective of the victim(s). Anger control or management, substance abuse treatment or mental health treatment alone or in combination with each other shall not constitute batterers intervention; neither may these interventions alone nor in combination with each other be utilized as the primary means of facilitating the required changes in behavior and attitudes.

"**Business day**" shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 o'clock p.m. of the next business day.

"**Certified batterers intervention program**" or "**Certified treatment program for batterers**" means a status which is granted to an entity by the Oklahoma Attorney General, and

~~indicates~~Indicates approval to provide batterers intervention services and treatment programs pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"**Child**" or "**Children**" means any individual from birth to eighteen years of age.

"**Client**" means an individual, adult or child, who has applied for, is receiving or has received assistance or services of a DV/SA or batterer's program.

"**Client record**" includes, but is not limited to, all communication, records and information on an individual client.

"**Community**" means the people, groups, agencies or other facilities within the locality served by the program.

"**Coordinated Community Response Team**" means a multi-disciplinary group of individuals from agencies and programs in the community whose purpose is to keep victims safe and hold batterers accountable.

"**Counseling**" means a method of using various commonly acceptable treatment approaches provided face-to-face by a behavioral health professional either licensed or under supervision for licensure as a Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. Counseling is goal directed and utilizes techniques such as cognitive behavioral treatment, narrative therapy, solution-focused brief therapy, psycho-educational interventions or another widely accepted theoretical framework for treatment.

"**Critical incident**" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients, personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"**Director**" means the person hired by the governing authority to direct all the activities of the organization.

"**DV/SA**" means domestic violence and sexual assault.

"**Documentation**" means the provision of written, dated and authenticated evidence to substantiate compliance with standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, records, policies, procedures, announcements, correspondence, and photographs.

"**Domestic violence**" means assaultive or coercive behaviors, including physical, sexual and psychological attacks and economic coercion, against another adult, emancipated minor or minor child, who are family or household members or who are or were in a dating relationship.

"**Education**" means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of the community concerning domestic violence, sexual assault or batterer's intervention and other related problems and services and may

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include a systematic presentation of selected information to impart knowledge or instructions, to increase understanding of specific issues or programs, to examine attitude or behaviors and stimulate social action or community support of the program and its clients.

**"Executive director"** means the person in charge of a facility as defined in this section.

**"Facility"** means the physical location(s) of a certified program governed by this chapter of Title 75.

**"Family"** means the children, spouse, parents, brothers, sisters, other relatives, foster parents, guardians and others who perform the roles and functions of family members in the lives of clients.

**"Intake"** means the written information about a client as a basis for assessment or services, obtained by the program at time of admission.

**"Licensure"** means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

~~**"Medical care"** means those diagnostic and treatment services which, under the laws of the jurisdiction in which the program is located, can only be provided or supervised by a licensed physician.~~

**"Mental health services"** means a range of diagnostic, therapeutic, and rehabilitative services used in treating mental illness or emotional disorders, including substance abuse.

**"Neglect"** means failing to provide adequate personal care or maintenance, or access to medical care which results or may result in physical or mental injury or harm to a client.

**"Non-abusive behavior"** includes planning for the prevention of violent, coercive, controlling, and abusive behavior; assisting the batterer to develop tools in advance of potential abuse or violence for the immediate and long-term safety of the victim/survivor. The plans should be based on the individual's dangerousness indicators and should include the safety needs of the victim and dependents.

**"OAG"** means the Oklahoma Office of the Attorney General.

**"Objectives"** means a specific statement of planned accomplishments or results which are quantitative, qualitative, time-limited and realistic.

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

**"Operation"** means that clients are receiving services provided by the program.

**"Personnel record"** means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

**"Persons with special needs"** means persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf and hard of hearing, blind, physically

disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

**"Policies"** means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

**"Procedures"** means the standard methods by which policies are implemented.

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

**"Program evaluation"** means the documented assessment activities, performed internally or externally, of a program or a service and its staff, activities and planning process to determine whether program goals are met, staff and activities are effective, and what effect, if any, a program or service has on the problem which it was created to address or on the population which it was created to serve.

**"Program goals"** means broad general statements of purpose or intent.

~~**"Safety Planning"** means the process of working with the batterer to develop tools in advance of potential abuse or violence for the immediate and long term safety of the victim/survivor. The plans should be based on the individual's dangerousness indicators and should include the safety needs of the victim and any dependents.~~

**"Screening"** means the process of determining, preliminarily the nature and extent of a person's problem in order to establish the service needs of an individual. At a minimum, a screening shall include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

~~**"Service agreement"** means a written agreement between two or more service agencies or service agencies and/or individual service providers defining the roles and responsibilities of each party. The purpose of service agreements is to promote coordination and integration of service programs for the purpose of curbing fragmentation and unnecessary service duplication in order to assure a continuation of services.~~

**"Service note"** means the documentation of the time, date, location and description of services provided, and signature, including electronic signature, of staff or volunteer providing the services.

**"Staff"** means personnel that function with a defined role within the program whether full-time, part-time or contracted.

~~**"Support"** or **"Supportive Services"** means services provided to victims of domestic violence/sexual assault and/or their families which augment or complement a defined service plan.~~

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

### SUBCHAPTER 3. BATTERERS INTERVENTION

**75:25-3-1. Batterers intervention program**

(a) Each certified batterer intervention program shall have the policy, procedures, staffing, training, operational methods and facilities to meet the following requirements:

(1) Services shall be provided in a facility with offices available for private individual and group sessions.

(2) Services shall be provided to self or court-referred batterers. Group services shall be the primary modality. Referral to domestic violence services is provided for the batterer's partner or victim, when possible.

(3) Batterers intervention programs are educational programs based on a model of power and control designed to help batterers stop violence and coercion in domestic violence relationships by challenging their belief systems and holding them accountable for their behavior.

~~(34) The focus shall be on victim safety and the elimination of violence within the home and assisting the batterer in developing personal responsibility and accountability for his or her behaviors, understanding the fundamentals of anger and emotions, learning effective coping strategies and recognizing cyclic behavior. The service shall be based on non-victim blaming strategies.~~

~~(45) Batterers intervention shall not be confused with Anger/anger control or management, and/or—substance abuse treatment and/or mental health treatment—alone shall not constitute batterers intervention; neither may these interventions be utilized as the primary means of facilitating the required changes in behavior and attitudes. However, these secondary interventions may be used to supplement batterers intervention curriculum.~~

~~(56) Services shall include client assessments as described herein. Groups shall not provide substance abuse treatment and batterers intervention in the same program; batterers who have substance abuse issues need to be in recovery and to be receiving separate services for substance abuse.~~

(7) The majority of group session time should be focused on the subject abuse itself, and not on peripheral problems, past victimization experienced by the batterer, self-actualization, sensitivity training, or any other theme not directly related to abuse.

(8) Facilitators shall challenge minimization, denial and blame.

(9) Batterers shall be held accountable for their behavior; BIP facilitators shall report new offenses to the court.

(b) Education shall be provided to the batterer utilizing written curriculum specifically developed for batterers intervention that comprehensively addresses, at a minimum:

(1) the dynamics of domestic violence and power and control issues abuse and violence as a form of control, and an explanation of the need to give up all forms of controlling and coercive behavior;

(2) the socio-cultural basis for violence, including domestic violence a detailed explanation of the range of abusive power and control behaviors, including coercive behavior, chronic verbal abuse, economic abuse, sexual

abuse/mistreatment, psychological/mental abuse, physical abuse, abuse of animals and use of the children as weapons;

(3) issues of sexism and gender role stereotyping which may include but are not limited to attitudes such as entitlement to service and to deference; lack of respect for the partner and for women in general; double standards; the female partner's right to freedom of movement, freedom of expression, and other basic human rights; viewing the partner as inferior to him and others;

(4) non-abusive communication techniques;

(5) effective coping strategies;

(6) parenting in the context of domestic violence;

(7) effects of domestic violence on children accepting personal as well as financial responsibility including but not limited to child support, court costs restitution and BIP costs;

(8) developing healthy relationships;

(9) safety non-abusive behavior planning for the prevention of violence, including establishment of personal goals and objectives to eliminate violent, controlling and abusive behavior;

(10) effects of domestic violence on victims from a victim perspective, and

(11) the potential consequences of domestic violence.

(c) Services shall be provided during hours which make them available for clients whose work hours are between 8:00 A.M. and 5:00 P.M. Monday through Friday.

(d) The program shall maintain admission criteria for batterers intervention services.

(e) The program shall provide individual assessment sessions, ~~crisis intervention~~ and group sessions.

(f) Service policy shall not permit the substitution of individual sessions/counseling appointments for group participation except in a situation where only one batterer of a gender has been court-ordered to the program.

(g) Group sizes shall be limited to not less than two (2) and not more than sixteen (16) clients.

(h) ~~Discharge~~ Exit criteria shall be contingent on the satisfactory meeting of specific criteria by the participant, and NOT only upon the end of a specified period of time or a specified number of sessions.

(i) Joint participation shall not be allowed of the victim as part of batterers intervention.

(j) Male and female batterers shall not be served, or counseled, in the same group or session, i.e., together.

(k) The program shall maintain annually renewed service agreements with appropriate referral sources such as, but not limited to:

(1) substance abuse; and

(2) mental health services.

(3) local domestic violence program

(l) In the case of court referred clients, the program shall develop a written process for coordinating with and reporting to the court, judge, probation officer, and/or district attorney; ~~which shall include a current description of the program and the requirements for participation and successful completion of the program.~~

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(m) If other services for the batterer are necessary, appropriate referrals shall be made for such issues, including but not limited to mental health and/or substance abuse issues.

(n) Certified batterer intervention programs shall not be less than 52 weeks in duration. The 52 weekly group sessions shall be no less than ninety (90) minutes in length. Completion of a batterers intervention program requires at a minimum 52 weekly attended sessions as well as a favorable evaluation from the program.

(o) The batterers intervention program shall report ~~any client absence of to the court~~ three (3) unexcused, ~~consecutive sessions~~ absences in succession or seven (7) unexcused absences in a period of fifty-two (52) weeks to the court and the batterer shall be terminated from the program as per 21 O.S. § 644. Inability to pay shall not be considered an excused absence.

(p) Compliance with 75:25-3-1 shall be determined by a review of program policy and procedures; client records; service referral agreements, and other program documentation. ~~Compliance may also include client interviews and/or observation of direct client services.~~

### 75:25-3-4. Record content

(a) Client records shall contain, at a minimum, the following information:

(1) Intake and screening information:

- (A) Client's name;
- (B) Date of initial contact/intake;
- (C) Pertinent medical information, including substance abuse and incidents of traumatic brain injuries;
- (D) Emergency contact information (not the abused partner, and
- (E) Court Order, or police report, if applicable.

~~(2) Appropriate releases shall be obtained to facilitate communication with the partner or victim; other needed community agencies; the law enforcement or judicial systems, to assure that sufficient information is obtained to increase partner or victim safety and to properly apprise all parties of services, including the victim, court personnel, law enforcement personnel, staff of other programs serving batterers and the staff of programs providing victims' services.~~

~~(32)~~ An assessment of the ~~client~~ batterer shall be made prior to acceptance into the program. The assessment shall at a minimum include:

- (A) current and past history of violence;
- (B) lethality risk indicators risk instrument must be evidence-based and developed specifically for batterers intervention;
- (C) drug and alcohol use/abuse history and screening;
- (D) mental health history and screening;
- (E) criminal history and a report of the incident that generated the referral; and
- (F) current or past history with child protective or adult protective services. If currently involved with Child Protective Services, the assessment shall include a review of the Individualized Service Plan.

~~(43)~~ Service notes shall be completed for each batterer after every session which shall minimally include:

- (A) The time, date, location and description of services provided;
- (B) The signature of staff providing the services; and
- (C) A service note for each contact for services that shall include:
  - (i) personal responsibility and accountability;
  - (ii) level of participation in services;
  - (iii) change(s) in family, social, personal, legal or work environment(s);
  - (iv) inference of use or increased use of drugs/alcohol;
  - (v) whether or not facilitator observed sufficient indications of risk requiring notification of victim or others, and
  - (vi) referrals for supplemental services.

(D) Service notes shall document the ongoing provision of educational components addressing the risk of battering and other violence as set forth in 75:25-3-1(b).

~~(54)~~ An individualized written ~~client~~ contract shall be completed upon acceptance into the program prior to the first (1<sup>st</sup>) group session; signed by the batterer; and shall include, but not be limited to:

~~(A) Initial safety plan for protection of the victim~~ Notice that the batterer is joining an educational program, not a therapeutic program, and will not have the same level of confidentiality afforded by mental health services The program will not assure confidentiality with respect to:

- (i) Judge, District Attorney or referring agent
- (ii) current partner
- (iii) the victim(s)
- (iv) parent(s) of any of the batterers children
- (v) probation and parole
- (vi) law enforcement
- (vii) individuals toward whom there is a risk of imminent harm by the batterer
- (viii) Coordinated Community Response Team
- (ix) the domestic violence victim services program serving the area where the batterer lives or where the current or ex-partner lives or with the domestic violence program where the batterer is currently residing
- (x) the program will promise confidentiality with respect to: the general public, news media and anyone else not covered in the expectations set forth above.

(B) Attendance policy, including the length of intervention, minimum number of sessions required and the maximum length of time for completion of the required sessions.

(C) The criteria for suspension and termination.

(D) The program's rules.

(E) A written notice in bold type which specifies **"Please be advised any reasonable knowledge or**

**suspicion of illegal activities or bodily harm, or a threat of such, to the victim, her or his property, or to third persons, or any attempt, threat or gesture to commit suicide, or any belief that child abuse or neglect is present or has occurred, will be reported to the appropriate person(s) or authorities."**

(F) A list of provider program expectations, such as participation, homework and that the batterer will be held accountable for all abusive and violent behavior or threats of harm or expressions of intent to do harm. This includes harm to current or past victims or partners. Such acts include but are not limited to child abduction, court actions for divorce or custody, underhanded economic maneuvers, substance use, and intentionally exposing the victim(s) or partner(s) to risk of sexually transmitted diseases.

~~(G) The batterer's responsibilities for safety planning, including, but not limited to, an awareness of abusive and violent behavior and patterns, e.g., time out procedures, procedures which inform the partner or victim appropriately and are not used to control her or him, logging or writing a journal of efforts to control behavior and nonviolence maintenance such as buddy telephone calls, additional support groups, relaxation and exercise, etc.~~

~~(H) Releases of information for collateral treatment, i.e., substance abuse or mental health treatment.~~

(65) Reports. In the case of court-ordered or otherwise referred batterers, ~~without jeopardizing the safety of the victim,~~ a written report to the court or referring agent, shall be submitted within seven (7) business days of the following events:

- (A) Acceptance into or rejection from the program including but not limited to a summary of the results of the initial assessment or the reason for rejection;
- (B) Reasonable knowledge or suspicion of illegal activities or bodily harm, or a threat of such, to the victim or to third persons, and;
- (C) Exit from the program including but not limited to the service termination report.

(76) All reports shall include any perceived areas of concern which may include, but are not limited to, substance abuse or mental health issues that the court may want to seriously consider.

(87) Initial victim or partner contact shall be attempted when the batterer has been accepted or denied admission to the program. Efforts to notify ~~the referring agent,~~ the victim or the victim's advocate shall be documented in the batterer's file, which may include an electronic file, without including any confidential victim identification information A victim questionnaire approved by OAG shall be completed by phone, face to face with the victim, or mailed to the victim. All victim information shall be confidential.

(98) Whenever possible, the batterers intervention program shall maintain contact with the victim or partner at the victim's discretion. If the victim or partner elects not to receive information, the program is still required to notify

the individual in the case of imminent threat or danger to the victim's safety.

(409) If the victim or partner elects to receive information after initial contact by the program, at a minimum, partner or victim notification is required when:

- (A) The batterer begins attending the intervention program;
- (B) The batterer terminates the intervention program for noncompliance;
- (C) There is an imminent threat or danger to the victim's safety.

~~(410)~~ The efforts to find and notify the batterer's partner or victim shall be documented.

(4211) Service termination reports shall be completed for all types of conditions under which services are ended and shall include, at a minimum, the reason for termination, summary of lethality risk indicators, and any concerns for the safety of victims, children, and/or others. Types and reasons for terminating services include:

(A) **Rejection.** Reasons for rejection shall be documented and include, but are not limited to: psychiatric history, including active or recent mental health related problems; criminal record of violent crimes; chemical dependency requiring completion of an inpatient or residential treatment program; or inability to function in a group due to limited mental cognitive abilities;

(B) **Involuntary termination.** Reasons for involuntary termination shall be documented and include, but are not limited to: recurrence of violence; arrest; absences from program sessions and activities; failure to actively participate in group sessions attended; attending a group session when under the influence of alcohol or drugs; violation of any rules of the treating program or violation of the ~~client-contractor~~BIP contract.

(C) **Completion.** Upon completion of the program, an exit interview and service termination report shall be completed and documented in the client record. The service termination report shall include a disclosure stating that completion of batterers intervention does not indicate that the client will not re-offend; it is a report that the person has ~~satisfactorily~~ completed the necessary requirements of the certified program without any other known or reported re-offending during the time of enrollment in the program.

~~(4312)~~ Exit information, which shall minimally include:

- (A) Documentation that the ~~client~~batterer participated in planning for his or her exit from the program;
- (B) The reasons for the ~~client's~~batterer's exit or departure; and
- (C) Client and staff dated signatures or an explanation if staff were unable to obtain the client's signature.

(b) Where required information is not obtained, efforts to comply with the requirements of this subsection shall be documented in the client record.

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(c) Compliance with this 75:25-3-4 shall be determined by a review of client records for content, review of program policy and procedures; or other supporting program documentation.

### 75:25-3-6. Client record, handling, retention, and disposal

(a) A program shall have written policy and procedures addressing the storage, retention period, and method of disposal of ~~client~~BIP records. ~~This policy and procedures shall be compatible with protecting clients' rights against unauthorized confidential information disclosures where applicable.~~

(b) Client records shall be easily retrieved by staff as needed for providing and documenting services.

(c) Compliance with 75:25-3-6 shall be determined by a review of the program's policy and procedures, and a review of office and files.

### 75:25-3-13. Annual program evaluation

(a) The agency shall conduct an annual evaluation of the program's services, facilities and policy and procedures. This evaluation shall be carried out according to a written plan established in policy and procedures to include the plan of evaluation, data to be reviewed, and the persons to conduct the evaluation, ~~e.g., Certified Domestic Violence and Sexual Assault Program, staff, or other persons.~~

(b) Upon completion, this evaluation shall be made available to the OAG, local district attorney, court, personnel and volunteers.

(c) Compliance with 75:25-3-13 shall be determined by a review of the program evaluation, policy and procedures, staff meeting minutes, and/or any other supporting documentation provided by the program.

### 75:25-3-15. Client rights

(a) Each client shall ~~have and enjoy~~be afforded all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. Each program shall ensure each client has the rights which are listed below:

(1) Each client has the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity.

(2) Each client has the right to receive services without regard to his or her race, religion, sex, ethnic origin, age, degree of disability, handicapping condition, or legal status.

(3) Each client has the right to refuse to participate in any research project or medical experiment without informed consent of the client, as defined by law. A refusal to participate shall not affect the services available to the client.

(4) Each client has the right to assert grievances with respect to any alleged infringement of these stated rights of clients, or any other subsequently statutorily granted rights.

(5) No client shall ever be retaliated against, or subject to, any adverse conditions or services solely or partially because of having asserted ~~her or his~~the rights as stated in this section.

~~(6) Each client has the right to review his or her own records, or authorize his or her attorney or others to do so. However, where the program is providing the treatment of a mental health or substance abuse illness, the provisions of 43A O.S. § 1-109 and 42 CFR then apply.~~

~~(7) Each client has the right to know why services are refused and can expect an explanation concerning the reason he or she was refused certain services.~~

(b) Each client shall be given a copy of these rights and the provision of such shall be documented in the client record.

~~(c) Programs shall have written policy and procedures to ensure each client enjoys, and has explained to him or her, these rights; and these rights are visibly posted in client areas of the facility.~~

~~(d)~~ The OAG, in any investigation or program monitoring regarding client rights, shall have unimpeded access to clients, program records and program staff.

### 75:25-3-16. Client grievance policy and procedures

(a) Each program shall have a written client grievance policy providing for, but not limited to, the following:

(1) Written notice of the grievance and appeal procedure provided to the client;

(2) Time frames for the grievance policy's procedures, which allow for an expedient resolution of client grievances;

(3) Name(s) of the individual(s) who are responsible for coordinating the grievance policy and the individual responsible for or authority to make decision(s) for resolution of the grievance and the individual responsible for or authorized to make decisions for resolution of grievance. In the instance where the decision maker is the subject of a grievance, decision-making authority shall be delegated;

(4) Provide for notice to the client that he ~~or she~~ has a right to make a complaint to the OAG Victims Services Unit;

(5) Clients shall be given a copy of the grievance policy including the right to make a complaint to the OAG and the provision of such shall be documented in the client record;

(6) Mechanism to monitor the grievance process and improve performance based on outcomes; and

(7) Annual review of the grievance policy and procedures, with revisions as needed.

## SUBCHAPTER 5. PERSONNEL AND VOLUNTEERS

### PART 1. PERSONNEL

#### 75:25-5-3. Selection of personnel

(a) The methods for selecting personnel shall be described in policy and procedures and shall include, but not be limited to:

- (1) The processes for recruitment, selection and appointment; and
  - (2) Written criteria demonstrably related to the position being filled.
  - (3) Completion of a name search against the Mary Rippy and Violence Crime Offender registries;
- (b) Compliance with 75:25-5-3 shall be determined by:
- (1) A review of the policies and procedures.
  - (2) A review of job descriptions for personnel.
  - (3) A review of any other supporting documentation.

- ~~(20) Legal and ethical issues surrounding domestic violence;~~
- ~~(21) Cultural Sensitivity, and~~
- ~~(22) Effects of trauma including post traumatic stress disorder.~~

- (b) Volunteers providing indirect services are required to complete orientation as prescribed by the Executive Director which shall include training on confidentiality and facility safety and disaster plans.
- (c) Orientation for personnel must take place within 30 days of employment or prior to unsupervised direct client contact and services. Volunteer orientation must occur within 6 months or prior to unsupervised, direct client contact and services. The Executive Director of a facility may waive orientation training if documented that the staff or volunteer has completed the requisite program training within the past year.
- (d) Compliance with 75:25-5-19 shall be determined by a review of the written policies and procedures, and personnel and volunteer training manuals and records.

**SUBCHAPTER 5. PERSONNEL AND VOLUNTEERS**

**PART 5. TRAINING**

**75:25-5-19. Orientation - general, personnel and volunteers**

(a) A certified program shall provide a minimum of ~~168~~ hours orientation training to familiarize new personnel and volunteers providing direct services with the ~~program~~BIP which includes, but is not limited to:

- (1) ~~Program goals and services of each service component~~Standards for the BIP;
- (2) Program policy and procedures;
- (3) Confidentiality, ~~to include verbal confidentiality whether inside or outside the facility and client records~~in relation to the BIP;
- (4) Facility safety and disaster plans;
- (5) First aid kits and fire extinguishers, their location, contents and use;
- (6) Universal precautions;
- (7) Client rights;
- (8) Domestic violence and its effects on victims and children;
- (9) ~~The cycle of domestic violence~~Legal and ethical issues surrounding domestic violence including collusion with batterers;
- (10) ~~Power and control tactics of abuse;~~The remaining hours of orientation training shall be supplemented by reading materials as approved by the OAG VSU regarding batterers behavior. Staff/volunteers shall sign that they have read the approved reading list.
- ~~(11) Crisis intervention techniques;~~
- ~~(12) Sexual assault;~~
- ~~(13) Intimate partner stalking;~~
- ~~(14) Victim advocacy;~~
- ~~(15) Parenting and disciplinary techniques;~~
- ~~(16) Active listening techniques;~~
- ~~(17) Accessing resources needed by victims and their families including how to ensure services and access resources for persons with disabilities;~~
- ~~(18) Safety planning;~~
- ~~(19) Basic child development;~~

**75:25-5-20. In-service and ongoing training for personnel and volunteers**

(a) A certified program shall have policy and procedures mandating, at the minimum, ~~sixteen~~(16) hours of annual training of all staff which shall include:

- (1) Confidentiality, ~~to include verbal confidentiality whether inside or outside the facility and client records;~~
- (2) Facility safety and disaster plans;
- (3) First aid kits and fire extinguishers, their location, contents and use;
- (4) Universal precautions, and
- (5) Legal and ethical issues.

(b) The remaining hours of annual training shall be related to domestic violence, sexual assault, stalking, and batterers intervention ~~and administration~~ as prescribed and approved by the Executive Director as appropriate for the assigned staff duties.

(c) A certified program shall have policy and procedures mandating a minimum of four hours annual training of all volunteers providing direct services, related to domestic violence, sexual assault, and stalking as prescribed and approved by the Executive Director.

(d) Individuals that volunteer indirect services and do not meet the requirements for a volunteer providing direct services as defined in OAC 75:25-1-3 shall receive annual training as prescribed by the Executive Director, but do not have a minimum number of training hours required.

(e) Documentation of training must include the topic of the training, the name of the trainer(s), the date of the training, the length of the training session, the sponsor of the training, and approval of the training by the Executive Director of the agency.

(f) Compliance with 75:25-5-20 shall be determined by a review of policy and procedures; review of training records and other provided documentation of personnel training; and a review of personnel or volunteer records.

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## 75:25-5-21. Personnel training, batterers intervention services

(a) Personnel facilitating batterers intervention groups shall minimally have a graduate degree in a behavioral health or criminal justice related field and one-year related work experience, have a Bachelor's degree in a behavioral health or criminal justice related field and two years related work experience, or have been employed as a facilitator in a certified batterers intervention program prior to July 1, 2008.

(b) A certified batterers intervention program shall contract with or employ a qualified licensed professional as defined in 75:25-1-3 under "Counseling" for purposes of providing case and programmatic consultation to personnel facilitating batterers intervention groups and for conducting individual client evaluations before and after attendance of the program.

(c) Prior to providing any direct services, personnel facilitating batterers intervention services shall observe a minimum of 12 batterers intervention group sessions from an OAG certified program, and must complete 16 hours training that includes, but is not limited to:

- (1) Causes and dynamics of domestic violence;
- (2) Identification of cultural and social influences that contribute to violence;
- (3) Identification of coercive behavior and the development of cooperative skills;
- (4) Coercive sexual behavior;
- (5) Impact of domestic violence on children and the dynamics of the batterer as a parent;
- (6) Lethality indicators and assessment procedures such as:

(A) perceived loss of control over the victim through separation, divorce, victim fleeing,

(B) extreme jealousy,

(C) escalation of abuse,

(D) acts of abuse,

(E) suicide/homicide threats, plan to carry out either of above,

(F) use of, or threat to use weapon (especially a gun),

(G) strangulation,

(H) stalking,

(I) history of mental health problems, substance abuse,

(J) history of sexual abuse of victim or children ~~and~~

(K) kidnapping of partner;

(L) unemployment;

(7) The effects of alcohol and drug use/abuse and domestic violence;

(8) Exploring myths and beliefs about domestic violence, including myths about provocation;

(9) Impact of domestic violence on victims;

(10) Batterers who re-offend;

(11) Group dynamics and group structure;

(12) Planning for non-violence and victim and dependent safety, and

(13) ~~Defining and identifying dominant aggressors~~ Power and control.

(14) Facilitator boundaries and collusion with the batterer.

(d) Personnel who provide batterers intervention service may not provide services for the victim that may result in a conflict of interest.

(e) Personnel who provide batterers intervention must declare in writing that they are:

(1) violence free in their own lives,

(2) not abusing drugs or alcohol, and

(3) seeking to rid themselves of sexist attitudes.

(f) Compliance with 75:25-3- 21 shall be determined by:

(1) Review of program's policy and procedures.

(2) Review of program's training records and other provided documentation of staff training.

(3) Review of personnel records.

[OAR Docket #12-830; filed 6-28-12]

## TITLE 460. DEPARTMENT OF MINES CHAPTER 3. NON-COAL RULES OF PRACTICE AND PROCEDURES

[OAR Docket #12-834]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

460:3-1-5. [AMENDED]

Appendix A. Motion for Limited Admission to Practice this Administrative Hearing [REVOKED]

### AUTHORITY:

45 O.S., §§721 et seq.; 75 O.S., §§302 et seq.; Department of Mines

### DATES:

#### Comment period:

January 17, 2012 through February 17, 2012

#### Public hearings:

February 22, 2012 at Oklahoma City in the afternoon and February 22, 2012 in the evening at McAlester, Oklahoma

#### Adoption:

March 15, 2012

#### Submitted to Governor:

March 22, 2012

#### Submitted to House:

March 22, 2012

#### Submitted to Senate:

March 22, 2012

#### Gubernatorial approval:

May 1, 2012

#### Legislative approval:

Failure of the legislature to disapprove the rules resulted in final approval on May 18, 2012

#### Final adoption:

May 18, 2012

#### Effective date:

August 12, 2012

#### SUPERSEDED EMERGENCY ACTION:

n/a

#### INCORPORATE BY REFERENCE:

n/a

#### CONTACT PERSON:

Cathy Frank, Legal Officer, Department of Mines, 1102 W. Cherokee St., Suite D, Wagoner, OK 74467; (918)485-3999

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,  
THE FOLLOWING PERMANENT RULES ARE**

CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF AUGUST 12, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

460:3-1-5. Conducting hearings for formal review

(a) The Department may hold hearings for formal review on any matter within the Department's jurisdiction. Hearings for formal review may be instituted and conducted where expressly required by law and where deemed necessary to the proper execution and discharge of any of the powers or duties conferred or imposed upon the Department by law. Hearings may be instituted by application, petition, complaint (herein generally and collectively referred to as "application") or similar request of an aggrieved person or by the Department on its own initiative.

(b) All hearings for formal review held under the authority of 45 O.S., Section 721 et seq., shall be in compliance with 75 O.S., Section 301 et seq., as amended, and with this Chapter.

(c) Hearings for formal review shall be conducted by an authorized Hearing Examiner who shall be designated by the Chief Mine Inspector. Hearing Examiners are authorized to issue subpoenas, administer oaths, to supervise, direct, preside over and conduct the hearing proceedings; to make and enter interlocutory rulings; to make and enter rulings on any other motions or objections arising during the course of the hearings; and generally to do all things necessary and incidental to conducting and completing the hearing.

(d) Hearings for formal review may be held at the main offices of the Department in Oklahoma City, or as such other locations as may be designated by law, rule or regulation.

(e) All testimony and evidence given at hearings for formal review shall be electronically recorded in duplicate. Upon receipt of notice of appeal to the District Court pursuant to the Administrative Procedures Act or upon other proper request of a party of record, the Department shall transcribe the testimony verbatim. The cost of transcribing the hearings and furnishing a certified copy of the record to the District Court shall be borne by the appellant, petitioner or requesting party. When a completed hearing record has been transcribed and certified, a copy of the transcript may be obtained, upon written request, from the Department. There will be a transcription fee, as determined by the Department, payable by the requesting party. [75 O.S. Sections 309, 320].

(f) When deemed necessary and proper for the purposes of a hearing for formal review, pre-hearing discovery by a party may be allowed as provided under the Administrative Procedures Act and this Chapter. Depending upon the nature of the hearing, pre-hearing discovery may be made at any time subsequent to the filing (and acceptance for filing) of an application or petition, or otherwise, at any time subsequent to the institution of proceedings on the application. Requests for pre-hearing discovery must be timely made and the Hearing Examiner may impose reasonable and necessary limitations

on the period of time within which discovery requests may be presented and entertained.

(1) In any hearing proceeding, the Hearing Examiner may direct, on the Examiner's own motion or at the request of a party, that the parties appear for a pre-hearing conference. Parties of record shall be notified of such conferences in advance. Pre-hearing conference may be held to facilitate simplification of issues presented, admissions and stipulations, the identification of documents and witnesses proposed to be offered, discovery and production of relevant documents and other information, to consolidate parties and issues, and any other matters as may aid in the conduction of the hearing.

(2) The Hearing Examiner, on the Examiner's own motion or at the request of a party, may, in the name of the Department, issue subpoenas for witnesses and/or the production of books, records, papers or other information or objects. Subpoenas may be personally served by any authorized Department member or by certified mail, return receipt requested. Subpoenas must be served no less than three (3) days prior to the date of the hearing. [75 O.S., Section 315].

(g) The Hearing Examiner shall open the hearing for formal review at the time and place set forth in the notice.

(1) After opening the hearing for formal review, the Hearing Examiner shall determine whether notice of the hearing was properly given as required by law. Should it be determined that the required notice was not given or is materially, substantially or prejudicially defective in form or content, the Hearing Examiner shall adjourn the hearing, set a new hearing date and a new and proper notice thereof shall be given. In addition to the required notice, all parties of record shall be given written notice of the new hearing date.

(2) After opening the hearing for formal review, the Hearing Examiner shall request that all parties enter their appearances for the record and whether they are appearing in support of or in opposition to the application. Parties may appear personally, by authorized representative and/or by legal counsel, provided, attorneys appearing as legal counsel for and on behalf of a party must be duly licensed to practice law in the State of Oklahoma ~~or must complete the oath [5 O.S. Section 17.1 and Article II, Section 5 of the Rules of the Oklahoma Bar Association] set forth in Appendix A of this Chapter.~~ The applicant or protestant must appear at the hearings, either personally, by representative or by legal counsel. The failure of any party to appear shall be deemed to constitute a default and abandonment of interest by the party failing to appear and shall preclude the party from being heard further unless good cause for such failure to appear is shown five (5) days from the date of the hearing.

(3) After all parties have entered their appearance, the Hearing Examiner shall proceed to entertain presentation of evidence and testimony. The testimony of a witness shall be taken only upon sworn oath or affirmation. Witnesses shall be sworn individually. Each party shall have

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the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses, to object to the introduction of evidence, to impeach witnesses, and to rebut evidence presented. [75 O.S., Section 310]

(4) As provided under the Administrative Procedures Act, the strict and formal rules of evidence and pleading such as are applied and prevail in a court of law need not be observed in Department hearings for formal review. All evidence and testimony offered must be relevant and material to the matter subject of the application and hearing. Evidence and testimony which is clearly irrelevant, immaterial, incompetent or unduly repetitious or cumulative may be excluded or limited. Evidence may be received by stipulation and agreement of all interested parties. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available and upon request, a party may be given the opportunity to compare the copy with the original. Copies of proposed exhibits shall be supplied to adverse parties and one original copy submitted to the Hearing Examiner. Each exhibit offered shall be tendered for identification. Each exhibit entered into evidence shall become a part of the administrative record. No exhibit shall be accepted after the conclusion of the hearing.

(5) Files and records of the Department which pertain to the subject of the hearing, and books, reports, and other papers or writings which have been prepared and published by any governmental or public agency, may at the discretion of the Hearing Examiner, be officially noticed and received into evidence as exhibits and incorporated by reference. The original or a copy in the possession of the Department shall be made available for inspection and copying by any party. Each such matter shall be appropriately identified and designated by number in the record as an exhibit. Certification of such files and records may be waived when it appears there is not valid reason to doubt the authenticity of the document presents. Official notice may also be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the Department's specialized knowledge. [75 O.S., Section 310]

(6) The Hearing Examiner may, at the Examiner's discretion, continue or adjourn a hearing to another date. Hearing continuances may be granted at the request of any party for good cause or by agreement of all parties or may be ordered on motion of the Hearing Examiner. Continuances or adjournments for further hearing shall be to date, time and place certain announced in open session of the hearing. Where granted or ordered prior to the scheduled hearing date, the party at whose request the continuance was granted or ordered shall notify all other interested parties of record of the date, time, and place set by the Hearing Examiner for further hearing. At the conclusion

of a hearing, the Hearing Examiner may, at the Examiner's discretion for good cause shown and without prejudice to any party, leave the hearing record open to allow presentation and rebuttal of additional material or information necessary to a full, fair and complete submission and disposition of the matter subject of the hearing.

(7) Upon conclusion of a hearing for formal review, the Hearing Examiner may request that all parties file proposed findings of fact and conclusion of law for review and consideration by the Hearing Examiner. The Hearing Examiner may request all parties to submit legal briefs. [75 O.S. Section 312]

(8) After all parties have had an opportunity to be heard and present evidence, and after expiration of any additional time allowed, the hearing shall be deemed completed and the hearing record shall be deemed closed.

(9) As expeditiously as possible after completion of the hearing for formal review, the Hearing Examiner shall review, consider and evaluate all matters presented and relevant to the hearing issues, and, based thereon, the Hearing Examiner shall prepare a proposed final order containing necessary findings of fact and conclusions of law. The Examiner's proposed Order shall be presented to the Director of the Department of review, consideration and action. All parties of record shall be furnished a copy of the Examiner's proposed Order, at least 15 days in advance of the final order of the Director, and my file Exceptions thereto, [75 O.S., Section 311]

(10) At such time as the Examiner's proposed Order is to be considered and acted upon by the Director, no new testimony or evidence may be presented or entertained. Upon request, oral arguments and supporting briefs on the Examiner's proposed Findings of Fact, Conclusions of Law and Order may be presented, but a reasonable time limit for argument shall be fixed. Oral argument shall be recorded and shall become a part of the record. All parties of record shall be furnished a copy of the final Findings of Facts, Conclusion of Law, and Order of the Director of the Department. [75 O.S. Section 312]

(11) As allowed by and subject to compliance with the requirements imposed under the Administrative Procedures Act, any party may request rehearing, reopening or reconsideration of any final Department action, decision or Order. The Department may, on its own motion, order rehearing, reopening or reconsideration of any Department action, decision or ruling, may be taken as allowed and provided by and subject to the requirements of the Administrative Procedures Act. Subject to the provisions of the Administrative Procedures Act and unless otherwise directed or ordered by the Department, no Department action, decision or Order shall be stayed pending, rehearing, reopening, reconsideration or appeal. [75 O.S., Sections 317, 319]

APPENDIX A. MOTION FOR LIMITED ADMISSION TO PRACTICE THIS ADMINISTRATIVE HEARING [REVOKED]

Appendix A.
BEFORE THE OKLAHOMA DEPARTMENT OF MINES

IN RE: )
)
) No. \_\_\_\_\_
)

MOTION FOR LIMITED ADMISSION TO PRACTICE THIS ADMINISTRATIVE HEARING

In accordance with 5 O.S. 1981, & 17.1 and Article II, Sec. 5 of the Rules of the Oklahoma Bar Association, I, the undersigned attorney, move this Hearing Examiner to admit me to practice law before this tribunal in the above-referenced administrative hearing.

I do solemnly swear that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of Oklahoma; that I will do no falsehood or consent that any be done in court, and if I know of any I will give knowledge thereof to the judges of the court, or some one of them, that it may be reformed; I will not wittingly, willingly or knowingly promote, sue or procure to be sued, any false or unlawful suit, or give aid or consent to the same; I will delay no man for lucre or malice, but will act in the office of attorney in this court according to my best learning and discretion, with all good fidelity, as well to the court as to my client, so help me God.

[OAR Docket #12-834; filed 6-29-12]

# Permanent Final Adoptions

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## TITLE 460. DEPARTMENT OF MINES CHAPTER 10. NON-COAL RULES AND REGULAIONS

[OAR Docket #12-835]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 17. Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions Excluding Limited/Unlimited Use Permits

460:10-17-6 [AMENDED]

Subchapter 35. State Inspections

460:10-35-8 [AMENDED]

### AUTHORITY:

45 O.S., §§1.5 and 732 et seq.; 75 O.S., §§302 et seq.; Department of Mines

### DATES:

#### Comment period:

January 17, 2012 through February 17, 2012

#### Public hearings:

February 22, 2012 at Oklahoma City in the afternoon and February 22, 2012 in the evening at McAlester, Oklahoma

#### Adoption:

March 15, 2012

#### Submitted to Governor:

March 22, 2012

#### Submitted to House:

March 22, 2012

#### Submitted to Senate:

March 22, 2012

#### Gubernatorial approval:

May 1, 2012

#### Legislative approval:

Failure of the legislature to disapprove the rules resulted in final approval on May 18, 2012

#### Final adoption:

May 18, 2012

#### Effective date:

August 12, 2012

#### SUPERSEDED EMERGENCY ACTION:

n/a

#### INCORPORATE BY REFERENCE:

n/a

#### CONTACT PERSON:

Cathy Frank, Legal Officer, Department of Mines, 1102 W. Cherokee St., Suite D, Wagoner, OK 74467; (918)485-3999

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,  
THE FOLLOWING PERMANENT RULES ARE  
CONSIDERED PROMULGATED AND EFFECTIVE**

UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF AUGUST 12, 2012:

### **SUBCHAPTER 17. REVIEW, PUBLIC PARTICIPATION AND APPROVAL OF PERMIT APPLICATIONS AND PERMIT TERMS AND CONDITIONS EXCLUDING ~~LIMITED/UNLIMITED USE PERMITS~~**

#### **460:10-17-6. Right to file written objections**

(a) Any person who resides or owns property ~~within one mile of~~ that could be adversely affected by the proposed non-coal mining operation shall have the right to file written objections to an initial or revised application for a permit with the Department, within 14 days after the last date of publication of the newspaper notice required by 460:10-17-5.

(b) The Department shall, immediately upon receipt of any written objection transmit a copy of them to the applicant.

### **SUBCHAPTER 35. STATE INSPECTIONS**

#### **460:10-35-8. Serious injury or fatality report**

(a) Whenever loss of life or serious injury shall occur in or about a mine, it shall be the duty of the operator of the mine to report the accident involving loss of life or injury without delay to the Department. It is the duty of the Department, if determined necessary, to immediately send a mine inspector to the scene of the accident, and make a report to the Department. Forms for reporting accidents shall be furnished by the Department. Any operator failing to notify the Department of a fatality or an injury in a timely manner shall be assessed by the Department a fine of up to five hundred dollars (\$500.00).

(b) All mines regulated by MSHA must promptly provide copies to the Department of any accident reports that have been filed with MSHA.

[OAR Docket #12-835; filed 6-29-12]

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# Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

## TITLE 1. EXECUTIVE ORDERS

### 1:2012-16A.

#### AMENDED EXECUTIVE ORDER 2012-16

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

1. Tornadoes, straight line winds, flash flooding and hail storms beginning May 29, 2012, and that are continuing, have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.
2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.
3. There is hereby declared a disaster emergency caused by the tornadoes, straight line winds, flash flooding and hail storms in the State of Oklahoma that threaten the lives and property of the people of this State and the public's peace, health and safety. The counties included in this declaration are:

Alfalfa, Blaine, Bryan, Caddo, Canadian, Cleveland, Comanche, Cotton, Creek, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Harper, Kingfisher, Kiowa, Latimer, Lincoln, Logan, Love, Major, McClain, Oklahoma, Okmulgee, Pittsburg, Pottawatomie, Stephens, Tillman, Tulsa, Washita, Woods, and Woodward.

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

4. The State Emergency Operations Plan was activated on May 29, 2012, and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

6. This Executive Order shall terminate on Tuesday, July 3, 2012.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 3rd day of July, 2012.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Mary Fallin

ATTEST:  
Michelle R. Day  
Assistant Secretary of State

[OAR Docket #12-837; filed 7-3-12]

