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Mary Fallin, Governor
V. Glenn Coffee,
Secretary of State
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Table of Contents

Agency/Action/Subject Index	iii
Rules Affected Index	iv
Agency Index (Title numbers assigned)	v
Notices of Rulemaking Intent	
Alcohol and Drug Counselors, Oklahoma Board of (Title 38)	355
Attorney General (Title 75)	356
Central Services, Department of (Title 580)	357
Regents for Higher Education, State (Title 610)	358
Submissions for Review	
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35)	359, 360, 361, 362
Corporation Commission (Title 165)	362, 363
Employment Security Commission, Oklahoma (Title 240)	364
Labor, Department of (Title 380)	364, 365
Gubernatorial Approvals	
Employment Security Commission, Oklahoma (Title 240)	367
Withdrawn Rules	
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35)	369
Emergency Adoptions	
Health Care Authority, Oklahoma (Title 317)	371
Executive Orders (Title 1)	373

Agency/Action/Subject Index

**AGRICULTURE, Food, and Forestry, Oklahoma
Department of (Title 35)**

Submissions for Review

Agricultural Products (Chapter 10)	359
Fuel Alcohol (Chapter 13)	359
Animal Industry (Chapter 15)	359
Water Quality (Chapter 17)	360
Consumer Protection (Chapter 30)	361
Food Safety (Chapter 37)	361
Agriculture Pollutant Discharge Elimination System (Chapter 44)	361
<u>Commercial Pet Breeders</u> (Chapter 55)	362

Withdrawn Rules

Forestry (Chapter 20)	369
Market Development (Chapter 40)	369

**ALCOHOL and Drug Counselors, Oklahoma Board of
(Title 38)**

Notices of Rulemaking Intent

Administration (Chapter 1)	355
Licensure and Certification of Alcohol and Drug Counselors (Chapter 10)	355

ATTORNEY General (Title 75)

Notices of Rulemaking Intent

<u>Office of Civil Rights Enforcement - Administrative Process</u> (Chapter 35)	356
--	-----

CORPORATION Commission (Title 165)

Submissions for Review

Fuel Inspection (Chapter 15)	362
Underground Storage Tanks (Chapter 25)	362
Aboveground Storage Tanks (Chapter 26)	363
Indemnity Fund (Chapter 27)	363
Storage Tank Advisory Council (Chapter 28)	363
Remediation of Petroleum Storage Tank Releases (Chapter 29)	363

**EMPLOYMENT Security Commission, Oklahoma
(Title 240)**

Submissions for Review

Unemployment Insurance Program (Chapter 10)	364
---	-----

Gubernatorial Approvals

General Provisions (Chapter 1)	367
Employment Service (Chapter 5)	367
Unemployment Insurance Program (Chapter 10)	367
Workforce Investment Act (Chapter 21)	367

GOVERNOR

Executive Orders

Amending EO 2011-19; establishing Governor's Unmanned Aerial System Council (11-19A)	373
Establishing Governors Impaired Driving Prevention Advisory Council (13-3)	374
Ordering flags at half-staff to honor Former State Senator Jimmy Birdsong (13-4)	374

HEALTH Care Authority, Oklahoma (Title 317)

Medical Adoptions

Medical Providers-Fee for Service (Chapter 30)	371
--	-----

LABOR, Department of (Title 380)

Submissions for Review

Administrative Operations (Chapter 1)	364
Boiler and Pressure Vessel Rules (Chapter 25)	364
Abatement of Friable Asbestos Materials Rules (Chapter 50)	364
Workers' Compensation Enforcement Rules (Chapter 60)	365
Elevator Safety Act (Chapter 70)	365
<u>Alarm and Locksmith Industry Rules</u> (Chapter 75)	365

CENTRAL Services, Department of (Title 580)

Notices of Rulemaking Intent

Facilities Management (Chapter 10)	357
Fleet Management Division (Chapter 35)	357

REGENTS for Higher Education, State (Title 610)

Notices of Rulemaking Intent

Student Financial Aid and Scholarships (Chapter 25)	358
---	-----

Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
150:140-1-1. [NEW] (E)	101	530:10-21-12. [NEW] (E)	204
150:140-1-2. [NEW] (E)	101	595:10-11-1. [NEW] (E)	204
150:140-1-3. [NEW] (E)	101	595:10-11-2. [NEW] (E)	204
150:140-1-4. [NEW] (E)	102	595:10-11-3. [NEW] (E)	204
150:140-1-5. [NEW] (E)	102	595:10-11-5. [NEW] (E)	205
150:140-1-6. [NEW] (E)	103	595:10-11-6. [NEW] (E)	205
252:303-1-1. [AMENDED] (E)	202	595:10-11-7. [NEW] (E)	206
317:30-3-25. [AMENDED] (E)	371	595:10-11-8. [NEW] (E)	206
317:30-5-2. [AMENDED] (E)	327	595:10-11-9. [NEW] (E)	206
317:30-5-122. [AMENDED] (E)	371	595:10-11-10. [NEW] (E)	206
317:30-5-240.1. [AMENDED] (E)	332	595:10-11-11. [NEW] (E)	207
317:30-5-241. [AMENDED] (E)	334	595:10-11-12. [NEW] (E)	207
317:30-5-241.3. [AMENDED] (E)	334	595:10-11-13. [NEW] (E)	207
317:30-5-291. [AMENDED] (E)	337	595:10-11-14. [NEW] (E)	207
317:30-5-296. [AMENDED] (E)	337	595:10-11-15. [NEW] (E)	208
317:30-5-676. [AMENDED] (E)	337	595:10-11-16. [NEW] (E)	208
317:35-5-41.6. [AMENDED] (E)	273	595:11-1-15. [AMENDED] (E)	209
330:30-2-8.1. [AMENDED] (E)	23	595:11-1-16. [AMENDED] (E)	209
340:10-2-3. [AMENDED] (E)	338	595:11-1-17. [NEW] (E)	210
340:10-2-6. [AMENDED] (E)	339	595:11-1-18. [NEW] (E)	210
340:10-3-56. [AMENDED] (E)	339	710:1-5-110. [NEW] (E)	104
340:10-3-57. [AMENDED] (E)	341	710:1-5-111. [NEW] (E)	104
340:10-4-1. [NEW] (E)	344	710:1-5-112. [NEW] (E)	104
340:10-10-3. [AMENDED] (E)	345	710:1-5-113. [NEW] (E)	104
340:40-7-8. [AMENDED] (E)	347	710:1-5-114. [NEW] (E)	104
377:3-11-2. [AMENDED] (E)	137	710:1-5-115. [NEW] (E)	105
377:3-11-5. [AMENDED] (E)	137	710:1-5-116. [NEW] (E)	105
377:3-11-10. [AMENDED] (E)	138	710:1-5-117. [NEW] (E)	105
377:3-11-11. [AMENDED] (E)	138	710:1-5-118. [NEW] (E)	105
377:15-11-1. [NEW] (E)	278	710:1-5-119. [NEW] (E)	105
377:15-11-2. [NEW] (E)	278	710:1-5-120. [NEW] (E)	105
377:15-11-3. [NEW] (E)	278	710:1-5-121. [NEW] (E)	105
377:35-9-8. [AMENDED] (E)	139	710:1-5-122. [NEW] (E)	106
530:10-9-92. [AMENDED] (E)	351	715:10-17-6. [AMENDED] (E)	73
530:10-15-48. [AMENDED] (E)	202	748:3-1-2. [AMENDED] (E)	106
530:10-21-10. [NEW] (E)	203	748:5-3-1. [AMENDED] (E)	107
530:10-21-11. [NEW] (E)	204		

Agency/Title Index

[Assigned as of 3-1-13]

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

Agency/Title Index – continued

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

Notices of Rulemaking Intent

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

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

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

TITLE 38. OKLAHOMA BOARD OF LICENSED ALCOHOL AND DRUG COUNSELORS CHAPTER 1. ADMINISTRATION

[OAR Docket #13-190]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Individual Proceedings
38:1-1-5. [AMENDED]

SUMMARY:

The proposed rule changes to Subchapter 1 changes the composition of the Complaint Review Committee to include a Board member, the review to determine probable cause, investigation, and informal process.

AUTHORITY:

Oklahoma Board of Licensed Alcohol and Drug Counselors; 59 O.S., § 43B-1875-1

COMMENT PERIOD:

Persons may submit written and oral comments to Richard D. Pierson at 101 N.E. 51st Street, Oklahoma City, Ok. 73105, or P. O. Box 54388, Oklahoma City, Ok. 73154 from March 1, 2013 to April 10, 2013.

PUBLIC HEARING:

A public hearing will be held at the Oklahoma Board of Licensed Alcohol, 101 N.E. 51st Street, Oklahoma City, Ok. 73105 at 10:00 A.M. to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door by 10:05 A.M. on April 1, 2013.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma Board of Licensed Alcohol and Drug Counselors, 101 N.E. 51st Street, Oklahoma City, Ok. 73105 or by going to our website at www.okdrugcounselors.org under Laws and Regulations.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be prepared and may be obtained from the Oklahoma Board of Licensed Alcohol and Drug Counselors at the above address beginning March 10, 2013.

CONTACT PERSON:

Richard D. Pierson, Executive Director, 405-521-0779.

[OAR Docket #13-190; filed 2-8-13]

TITLE 38. OKLAHOMA BOARD OF LICENSED ALCOHOL AND DRUG COUNSELORS CHAPTER 10. LICENSURE AND CERTIFICATION OF ALCOHOL AND DRUG COUNSELORS

[OAR Docket #13-191]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Rules of Professional Conduct [AMENDED]
Subchapter 7. Application [AMENDED]
Subchapter 9. Supervision [AMENDED]

SUMMARY:

The proposed rule changes to Subchapter 3 requires a Code of Ethics for LADC/MH candidates and sets forth the Co-Occurring Code of Ethics in Appendix B. The proposed changes also bring Title 59 and Title 38 into consistency with record retention per HIPAA laws at 7 years. Subchapter 3 changes allow CADC and LADC candidates to use the term "candidate" to identify status to other professionals and the public.

Subchapter 7 changes update current degree requirements for LADC application as amended in Title 59. Changes also set time limits for an applicant to complete all requirements for certification or licensure. Rules are established for the qualifications for the LADC/MH credential. Provisions are made for post-military applicants. LADC applicants may be in a private or independent practice if licensed and in good standing in another behavioral health profession. Changes make provision for an extension of applicants called to active duty. Requires additional training and supervision for a candidate that has failed an exam three (3) times. Provides an exemption of renewal fee for active duty military. Expedites reciprocity of licensure for spouses of active duty military. Renames the MCDC credential to the LADC/MH credential for consistency.

Subchapter 9 revisions on Supervision: requires direct observation for candidates practicing in community or home-based services; allows candidates that hold a valid Oklahoma license in another behavioral health profession to acquire supervision hours in their private practice; requires the Board be notified of termination of supervision within three (3) days; requires supervision logs be submitted to the Board at least every 3 months; a supervisee must remain under supervision and submit logs to the Board until licensed; and

Notices of Rulemaking Intent

limits supervisors to a maximum number of 20 supervisees at any time unless they come before the Board and get approval for each supervisee over 20.

Subchapter 13 sets parameters on continuing education units for CADCs, LADCs and LADC/MH renewing their license.

AUTHORITY:

Oklahoma Board of Licensed Alcohol and Drug Counselors; 59 O. S., § 43B-1875-1.

COMMENT PERIOD:

Persons may submit written and oral comments to Richard D. Pierson at 101 N.E. 51st Street, Oklahoma City, Ok. 73105, or P.O. Box 54388, Oklahoma City, Ok. 73154 from March 1, 2013 to April 10, 2013.

PUBLIC HEARING:

A public hearing will be held at the Oklahoma Board of Licensed Alcohol and Drug Counselors, 101 N. E. 51st Street, Oklahoma City, Ok. 73105 at 10:00 A.M. to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of five (5) minutes to speak and must sign in at the door by 10:05 A.M. on April 1, 2013.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Board of Licensed Alcohol and Drug Counselors, 101 N.E. 51st Street, Oklahoma City, Ok. 73105 or by going to our website at www.okdrugcounselors.org under Laws and Regulations.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be prepared and may be obtained from the Oklahoma Board of Licensed Alcohol and Drug Counselors at the above address beginning March 10, 2013.

CONTACT PERSON:

Richard D. Pierson, Executive Director, (405) 521-0779.

[OAR Docket #13-191; filed 2-8-13]

TITLE 75. ATTORNEY GENERAL **CHAPTER 35. OFFICE OF CIVIL RIGHTS** **ENFORCEMENT - ADMINISTRATIVE** **PROCESS**

[OAR Docket #13-192]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

75:35-1-1 [NEW]
75:35-1-2 [NEW]
75:35-1-3 [NEW]
75:35-1-4 [NEW]
75:35-1-5 [NEW]
75:35-1-6 [NEW]
75:35-1-7 [NEW]
75:35-1-8 [NEW]
75:35-1-9 [NEW]

75:35-1-10 [NEW]

75:35-1-11 [NEW]

SUMMARY:

The new proposed rules would implement the administrative process in the Office of Civil Rights Enforcement as required by the Oklahoma Anti-Discrimination Act. 25 O.S. §§1101, et seq. The proposed rules set forth the investigative procedure and the procedures which the Office of Civil Rights Enforcement is to utilize when bringing an individual proceeding under the Oklahoma Administrative Procedures Act, 75 O.S. §§309, et seq., against a person or entity alleged to have engaged in unlawful discrimination.

The proposed rules outline the method by which complaints are brought to the Office of Civil Rights Enforcement, the investigatory time limits and the authority of the investigators to seek information. The proposed rules outline the investigative methods, including the use of subpoenas, available to OCRE in its investigations. The proposed rules further outline the procedure to be utilized when a charge of discrimination is brought against a person or business alleged to have violated the Oklahoma Anti-Discrimination Act.

The proposed rules are adopted, with some modification, from rules of the now defunct Human Rights Commission.

AUTHORITY:

25 O.S. §1501, 25 O.S. §1507, SB763(2011); Attorney General

COMMENT PERIOD:

Persons may submit written and oral comments to M. Daniel Weitman at 313 NE 21st Street, Oklahoma City, Oklahoma 73102 during the period from March 1, 2013 until 10:00 a.m. April 1, 2013.

PUBLIC HEARING

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting M. Daniel Weitman at (405) 521-4274 no later than 9:00 a.m. on April 1, 2013.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of the Attorney General requests that business entities affected by these proposed rules provide the Office of the Attorney General, within the comment period, in dollar amounts if possible, the increase in the level of direct services, revenue loss, or other costs expected to be incurred by costs such as fees, and the indirect costs such as reporting or recordkeeping due to compliance with the proposed rules. Business entities may submit this information in writing to M. Daniel Weitman at 313 NE 21st Street, Oklahoma City, Oklahoma 73102 before the close of the comment period.

COPIES OF PROPOSED RULES

Copies of the proposed rules may be obtained from the Office of the Attorney General, 313 NE 21st Street, Oklahoma City, Oklahoma 73102.

RULE IMPACT STATEMENT

Pursuant to 75 O.S. §303(D), a rule impact statement is being prepared and will be available for review after March

15, 2013 at the above address for the Offices of the Attorney General.

CONTACT PERSON:

Lesley March, (405)522-0042

[OAR Docket #13-192; filed 2-8-13]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 10. FACILITIES MANAGEMENT**

[OAR Docket #13-193]

RULEMAKING ACTION:

Notice of proposed permanent rulemaking.

PROPOSED RULES:

Chapter 10. Facilities Management [AMENDED]

SUMMARY:

The proposed amendments are necessary to modify hours of operation for the Capitol and state office buildings, to implement statutory changes, correct scrivener's errors, and to provide clarification.

AUTHORITY:

Director of the Office of Management and Enterprise Services; 74 O.S., §63(B); 74 O.S. §85.5(C)(16)

COMMENT PERIOD:

Persons may submit written and oral comments to Kimberlee Williams at 2401 N. Lincoln Blvd, Oklahoma City, Oklahoma during the period from March 1, 2013 through 12 noon on April 1, 2013.

PUBLIC HEARING:

A public hearing has been scheduled for 9 a.m. Monday, April 1, 2013 at the offices of the Division of Capital Assets Management, 2401 N. Lincoln Blvd., Conference Room 216, Oklahoma City, OK.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The proposed rule is not intended to impose costs on business entities.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained by written request directed to Kimberlee.Williams@omes.ok.gov.

RULE IMPACT STATEMENT:

As required by 75 O.S. §303(D), a rule impact statement will be available for review after March 8, 2013 at the above address.

CONTACT PERSON:

Kimberlee Williams, (405) 522-3615 or Kimberlee.Williams@omes.gov.

[OAR Docket #13-193; filed 2-8-13]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 35. FLEET MANAGEMENT DIVISION**

[OAR Docket #13-194]

RULEMAKING ACTION:

Notice of proposed permanent rulemaking.

PROPOSED RULES:

- 580:35-1-1. General provisions [AMENDED]
- 580:35-1-2. Vehicle inventory control [AMENDED]
- 580:35-1-3. Vehicle management control [AMENDED]
- 580:35-1-4. Use of state owned and leased vehicles [AMENDED]
- 580:35-1-5. Service and rental rates [AMENDED]
- 580:35-1-6. Daily reservations and monthly assignments [AMENDED]
- 580:35-1-7. Gasoline and oil purchases [AMENDED]
- 580:35-1-8. Wrecker service, on-the-road breakdown and repairs [AMENDED]
- 580:35-1-9. Other credit and cash purchases [AMENDED]
- 580:35-1-10. Care and maintenance of vehicles [AMENDED]

SUMMARY:

The proposed new rules are necessary to add provisions relating to the leasing of vehicles and restrictions on the use of vehicles, implement statutory changes, correct scrivener's errors, and to provide clarification.

AUTHORITY:

Director of the Office of Management and Enterprise Services; 74 O.S., §78

COMMENT PERIOD:

Persons may submit written and oral comments to Kimberlee Williams at 2401 N. Lincoln Blvd, Oklahoma City, Oklahoma during the period from March 1, 2013 through 12 noon on April 1, 2013.

PUBLIC HEARING:

A public hearing has been scheduled for 10 a.m.. Monday, April 1, 2013 at the offices of the Division of Capital Assets Management, 2401 N. Lincoln Blvd., Conference Room 216, Oklahoma City, OK.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The proposed rule is not intended to impose costs on business entities.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained by written request directed to Kimberlee.Williams@omes.ok.gov.

RULE IMPACT STATEMENT:

As required by 75 O.S. §303(D), a rule impact statement will be available for review after March 8, 2013 at the above address.

Notices of Rulemaking Intent

CONTACT PERSON:

Kimberlee Williams, (405) 522-3615 or
Kimberlee.Williams@omes.gov.

[OAR Docket #13-194; filed 2-8-13]

**TITLE 610. STATE REGENTS FOR HIGHER
EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID
AND SCHOLARSHIPS**

[OAR Docket #13-169]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 23. Oklahoma Higher Learning Access Program
- 610:25-23-4. Program requirements [AMENDED]
- 610:25-23-5. Securing Program Benefits [AMENDED]
- 610:25-23-6. Retaining eligibility in postsecondary education [AMENDED]

SUMMARY:

The proposed rule changes address the following issues:
Grade Point Average (GPA) Standards: The proposed amendments extend the numerical value of the program's minimum GPA requirements from one decimal point to two decimal points (e.g. from 2.5 to 2.50). In statute, the program GPA requirements are written out to the first decimal place. However, high school and college GPA's are near universally calculated out to the second decimal point. The change will provide clear guidance to students, parents and school officials about the minimum GPA cut-off points and will clarify that rounding of the student's GPA to the first decimal point will not be permitted.

Three-Year Period after High School to Begin Using the Program Award: The statutes creating the program state that, to begin using the program award after high school, an Oklahoma's Promise student must "have graduated within the previous three (3) years." The proposed change clarifies

that the period is three *calendar* years. The change will help reduce any confusion about when the three-year period ends. For example, an Oklahoma's Promise student graduating in 2012 would be required to begin college no later than the end of 2015.

The remaining non-substantive changes simply update references to the State Regents policy on Institutional Admission and Retention.

AUTHORITY:

70 O.S. §2601 *et seq.*; 70 O.S. §3206 (i); Oklahoma State Regents for Higher Education

COMMENT PERIOD:

Interested persons may submit written and oral comments to David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, by 5:00 p.m., April 1, 2013.

PUBLIC HEARING:

A public hearing has not been scheduled; however, one can be requested by contacting David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 by 5:00 p.m., April 1, 2013.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 on and after March 1, 2013.

CONTACT PERSON:

David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289.

[OAR Docket #13-169; filed 2-6-13]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #13-180]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

35:10-1-3. Handbook and Publication Editions [AMENDED]

SUBMITTED TO GOVERNOR:

February 6, 2013

SUBMITTED TO HOUSE:

February 6, 2013

SUBMITTED TO SENATE:

February 6, 2013

[OAR Docket #13-180; filed 2-7-13]

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

[OAR Docket #13-181]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

35:13-1-1 [AMENDED]

35:13-1-2 [AMENDED]

SUBMITTED TO GOVERNOR:

February 5, 2013

SUBMITTED TO HOUSE:

February 5, 2013

SUBMITTED TO SENATE:

February 5, 2013

[OAR Docket #13-181; filed 2-7-13]

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

[OAR Docket #13-182]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

35:15-1-1. Purpose [AMENDED]

35:15-1-2. Definitions [AMENDED]

35:15-1-4. Exhibitions and shows [AMENDED]

35:15-1-5. Falsification of Records [NEW]

Subchapter 11. Importation of Livestock, Poultry, and Pets

Part 1. General

35:15-11-1. General import requirements [AMENDED]

Part 7. Livestock

35:15-11-15. Definitions [REVOKED]

35:15-11-18. Requirements for cervidae [REVOKED]

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

35:15-13-1. Definitions [AMENDED]

35:15-13-3. General requirements for a livestock auction market [AMENDED]

35:15-13-5. Approval and responsibilities of veterinarians in livestock auction markets [AMENDED]

35:15-13-6. Movement of livestock through livestock auction markets [AMENDED]

35:15-13-7. Specific approval of livestock auction markets [AMENDED]

Subchapter 17. Bovine and Bison Brucellosis

Part 1. Definitions

35:15-17-1. Definitions [AMENDED]

35:15-17-3. Identification of vaccinates [AMENDED]

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

35:15-17-49. Adult vaccination [AMENDED]

Part 11. Entry Permit and Retest Requirements [AMENDED]

35:15-17-73. Brucellosis requirements for entry of cattle and bison into Oklahoma [AMENDED]

35:15-17-74. Cattle and bison from an out-of-state farm of origin [AMENDED]

35:15-17-76. Out-of-state animals held under quarantine [REVOKED]

35:15-17-78. Test eligible sexually intact animals [AMENDED]

Subchapter 22. Swine Pseudorabies and Brucellosis

Part 1. General Provisions

35:15-22-1. Definitions [AMENDED]

35:15-22-3. Change of ownership requirements [AMENDED]

35:15-22-4. Requirements for livestock auction approved markets [AMENDED]

Part 3. Requirements for Swine Entering Oklahoma

35:15-22-33. Entry requirements for transitional production swine [AMENDED]

Submissions for Review

35:15-22-34. Entry requirements for livestock auction market and slaughter swine [AMENDED]
35:15-22-35. Commuter herd agreement requirements [AMENDED]
Part 7. Requirements for Swine Exhibitions
35:15-22-71. Exhibition requirements [AMENDED]
35:15-22-72. Swine exhibition event requirements [AMENDED]
Part 11. Pseudorabies and Brucellosis
35:15-22-109. Incorporation by reference [REVOKED]
Subchapter 34. Feral Swine
35:15-34-2. Definitions [AMENDED]
35:15-34-3. Importation of feral swine [REVOKED]
35:15-34-4. Intrastate testing of feral swine [REVOKED]
35:15-34-5. Transporter license [AMENDED]
35:15-34-6. Sporting facilities [AMENDED]
35:15-34-7. Breeding facilities [AMENDED]
35:15-34-8. Buying stations [REVOKED]
35:15-34-9. Gathering stations [REVOKED]
35:15-34-10. Carcass disposal [AMENDED]
35:15-34-11. Inspections [AMENDED]
35:15-34-13. License fees [AMENDED]
35:15-34-15. Holding facilities [AMENDED]
35:15-34-17. Existing facilities [REVOKED]
35:15-34-18. Phenotypic descriptions of feral swine [NEW]
Subchapter 36. Scrapie
35:15-36-1. Incorporation by reference of federal regulations [AMENDED]
35:15-36-2. Deleted regulations [AMENDED]
Subchapter 38. Bovine Trichomoniasis
35:15-38-1. Definitions [AMENDED]
35:15-38-2. Import requirements for bulls [AMENDED]
35:15-38-2.1. Intrastate change of ownership requirements for bulls [AMENDED]
Subchapter 40. Bovine Tuberculosis
Part 3. Rules Adopted from USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication
35:15-40-49.1. Dairy cattle change of ownership [AMENDED]
Subchapter 42. Tuberculosis Eradication in Cervidae
Part 1. Definitions
35:15-42-1. Incorporation by reference of federal regulations [AMENDED]
Part 3. Rules Adopted from USDA Uniform Methods and Rules for Tuberculosis Eradication in Cervidae
35:15-42-31. Authority to require test [REVOKED]
35:15-42-32. Personnel authorized to apply tuberculin tests [REVOKED]
35:15-42-33. Presumptive diagnostic test [REVOKED]
35:15-42-34. Supplemental diagnostic tests [REVOKED]
35:15-42-35. Primary/diagnostic tests [REVOKED]
35:15-42-36. Tuberculin test interpretation [REVOKED]
35:15-42-37. Classification of Cervidae tested [REVOKED]
35:15-42-38. Intrastate movement [REVOKED]

35:15-42-39. Reporting of tests [REVOKED]
35:15-42-40. Procedures in affected herds [REVOKED]
35:15-42-41. Disposition of tuberculin responding Cervidae [REVOKED]
35:15-42-42. Identification of reactor Cervidae [REVOKED]
35:15-42-43. Quarantine procedures for Cervidae [REVOKED]
35:15-42-44. Retest schedules for high risk cervid herds [REVOKED]
35:15-42-45. Cleaning and disinfection of premises, conveyances, and materials [REVOKED]
35:15-42-46. Identification of Cervidae [REVOKED]
Part 5. Herd Status Requirements
35:15-42-51. Minimum standards for accreditation and reaccreditation for Cervidae herds [REVOKED]
35:15-42-52. Minimum standards for monitored herd status for Cervidae [REVOKED]
35:15-42-53. Minimum requirements for qualified herd status for Cervidae [REVOKED]
Subchapter 44. Farmed Cervidae
35:15-44-1. Purpose [AMENDED]
35:15-44-4. Renewals [AMENDED]
35:15-44-19. Entry and export requirements [AMENDED]
35:15-44-20. Animal identification requirements [AMENDED]
Subchapter 47. Chronic Wasting Disease (CWD) in Cervids
Part 1. General
35:15-47-2. Definitions [AMENDED]
Part 3. Herd Certification Standards
35:15-47-6. Minimum requirements for herd certification [AMENDED]
Part 7. Interstate Movement Requirements
35:15-47-18. Minimum CWD requirements for interstate movement of cervids [AMENDED]

SUBMITTED TO GOVERNOR:

February 7, 2013

SUBMITTED TO HOUSE:

February 7, 2013

SUBMITTED TO SENATE:

February 7, 2013

[OAR Docket #13-182; filed 2-7-13]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY

[OAR Docket #13-183]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Swine Feeding Operations
35:17-3-11 [AMENDED]

35:17-3-14 [AMENDED]
35:17-3-18 [AMENDED]
35:17-3-19 [AMENDED]
35:17-3-31 [NEW]
Subchapter 4. Concentrated Animal Feeding Operations
35:17-4-5 [AMENDED]
35:17-4-9 [AMENDED]
35:17-4-25 [NEW]
Subchapter 5. Registered Poultry Feeding Operations
35:17-5-2 [AMENDED]
35:17-5-3 [AMENDED]
35:17-5-5 [AMENDED]
35:17-5-10.1 [AMENDED]
35:17-5-16 [NEW]

SUBMITTED TO GOVERNOR:

January 30, 2013

SUBMITTED TO HOUSE:

January 30, 2013

SUBMITTED TO SENATE:

January 30, 2013

[OAR Docket #13-183; filed 2-7-13]

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

[OAR Docket #13-184]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Combined Pesticide
Part 6. Pesticidal Product Producing Establishments
35:30-17-13 [AMENDED]
Part 8. Expiration of Pesticide Registrations and Permits
[AMENDED]
35:30-17-17 [AMENDED]
35:30-17-17.1 [NEW]
35:30-17-17.2 [NEW]
Part 21. Standards for Disposal of Pesticide and Pesticide
Containers
35:30-17-89.1 [AMENDED]

SUBMITTED TO GOVERNOR:

February 6, 2013

SUBMITTED TO HOUSE:

February 6, 2013

SUBMITTED TO SENATE:

February 6, 2013

[OAR Docket #13-184; filed 2-7-13]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 37. FOOD SAFETY**

[OAR Docket #13-185]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Meat Inspection
Part 1. General Provisions
35:37-3-1 [AMENDED]
Subchapter 5. Poultry Products Inspection
Part 1. General Provisions
35:37-5-1 [AMENDED]
37:37-5-2 [AMENDED]

SUBMITTED TO GOVERNOR:

February 6, 2013

SUBMITTED TO HOUSE:

February 6, 2013

SUBMITTED TO SENATE:

February 6, 2013

[OAR Docket #13-185; filed 2-7-13]

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

[OAR Docket #13-186]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Agriculture Environmental Permitting and
AgPDES
Part 1. General Provisions
35:44-1-2 [AMENDED]
35:44-1-3 [AMENDED]
Subchapter 3. Permit Conditions and Requirements
35:44-3-3 [AMENDED]

SUBMITTED TO GOVERNOR:

January 31, 2013

SUBMITTED TO HOUSE:

January 31, 2013

SUBMITTED TO SENATE:

January 31, 2013

[OAR Docket #13-186; filed 2-7-13]

Submissions for Review

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

[OAR Docket #13-187]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Licensing [NEW]

35:55-1-1 [NEW]

35:55-1-2 [NEW]

35:55-1-3 [NEW]

35:55-1-4 [NEW]

35:55-1-5 [NEW]

35:55-1-6 [NEW]

35:55-1-7 [NEW]

35:55-1-8 [NEW]

35:55-1-9 [NEW]

35:55-1-10 [NEW]

35:55-1-11 [NEW]

35:55-1-12 [NEW]

35:55-1-13 [NEW]

Subchapter 3. Standards of Care [NEW]

35:55-3-1 [NEW]

35:55-3-2 [NEW]

35:55-3-3 [NEW]

35:55-3-4 [NEW]

35:55-3-5 [NEW]

35:55-3-6 [NEW]

35:55-3-7 [NEW]

35:55-3-8 [NEW]

35:55-3-9 [NEW]

35:55-3-10 [NEW]

Subchapter 5. Transportation [NEW]

35:55-5-1 [NEW]

35:55-5-2 [NEW]

35:55-5-3 [NEW]

35:55-5-4 [NEW]

35:55-5-5 [NEW]

Subchapter 7. Recordkeeping and Sales [NEW]

35:55-7-1 [NEW]

35:55-7-2 [NEW]

35:55-7-3 [NEW]

35:55-7-4 [NEW]

35:55-7-5 [NEW]

35:55-7-6 [NEW]

SUBMITTED TO GOVERNOR:

February 6, 2013

SUBMITTED TO HOUSE:

February 6, 2013

SUBMITTED TO SENATE:

February 6, 2013

[OAR Docket #13-187; filed 2-7-13]

TITLE 165. CORPORATION COMMISSION CHAPTER 15. FUEL INSPECTION

[OAR Docket #13-174]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Fuel Specialists, Testing, Accessibility, and Assistance

Part 7. Storage Tanks and Ancillary Equipment

165:15-3-20. Water in storage tanks [AMENDED]

Subchapter 15. Liquid Measuring Devices

Part 3. Calibration and Tolerances

165:15-15-9. Tolerances [AMENDED]

Part 9. Equipment and Operations

165:15-15-40.1. Dispenser filters [NEW]

SUBMITTED TO GOVERNOR:

February 7, 2013

SUBMITTED TO HOUSE:

February 7, 2013

SUBMITTED TO SENATE:

February 7, 2013

[OAR Docket #13-174; filed 2-7-13]

TITLE 165. CORPORATION COMMISSION CHAPTER 25. UNDERGROUND STORAGE TANKS

[OAR Docket #13-175]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

Part 11. Recordkeeping

165:25-1-54. Repair records [AMENDED]

Part 15. Shutdown of Operations

165:25-1-67. Shutdown of operations [AMENDED]

Part 17. Licensing Procedures

165:25-1-101. Licensing procedure for UST Installers [AMENDED]

165:25-1-102. Licensing procedure for UST Removers [AMENDED]

Subchapter 2. General Requirements for Underground Storage Tank Systems

Part 7. Dispensers

165:25-2-71. Dispensers [AMENDED]

SUBMITTED TO GOVERNOR:

February 7, 2013

SUBMITTED TO HOUSE:

February 7, 2013

SUBMITTED TO SENATE:

February 7, 2013

[OAR Docket #13-175; filed 2-7-13]

**TITLE 165. CORPORATION COMMISSION
CHAPTER 26. ABOVEGROUND STORAGE
TANKS**

[OAR Docket #13-176]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- Part 9. Recordkeeping
- 165:26-1-56. Repair records [AMENDED]
- Part 13. Shutdown of Operations
- 165:26-1-90. Shutdown of operations [AMENDED]
- Part 15. Licensing Procedures
- 165:26-1-110. Licensing procedure for aboveground storage tank licensee [AMENDED]
- Subchapter 2. General Requirements for Aboveground Storage Tank Systems
- Part 9. Dispenser Requirements
- 165:26-2-91. Dispensers [AMENDED]

SUBMITTED TO GOVERNOR:

February 7, 2013

SUBMITTED TO HOUSE:

February 7, 2013

SUBMITTED TO SENATE:

February 7, 2013

[OAR Docket #13-176; filed 2-7-13]

**TITLE 165. CORPORATION COMMISSION
CHAPTER 27. INDEMNITY FUND**

[OAR Docket #13-177]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 165:27-1-1. Purpose [AMENDED]
- Subchapter 3. Eligibility Requirements
- 165:27-3-1. General requirements [AMENDED]
- Subchapter 5. Qualifications for Reimbursement
- 165:27-5-1. Qualifications for reimbursement [AMENDED]
- Subchapter 7. Reimbursement

- 165:27-7-2. Reimbursement [AMENDED]
- 165:27-7-6. Conditions for reimbursement [AMENDED]
- 165:27-7-7. Exclusions from reimbursement [AMENDED]

SUBMITTED TO GOVERNOR:

February 7, 2013

SUBMITTED TO HOUSE:

February 7, 2013

SUBMITTED TO SENATE:

February 7, 2013

[OAR Docket #13-177; filed 2-7-13]

**TITLE 165. CORPORATION COMMISSION
CHAPTER 28. STORAGE TANK ADVISORY
COUNCIL**

[OAR Docket #13-178]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions [REVOKED]
- 165:28-1-1. Purpose [REVOKED]
- 165:28-1-2. Scope [REVOKED]
- 165:28-1-3. Definitions [REVOKED]
- 165:28-1-4. Description of Council [REVOKED]
- 165:28-1-5. Administration [REVOKED]
- 165:28-1-6. Meetings [REVOKED]
- 165:28-1-7. Public forum procedures [REVOKED]
- Subchapter 3. Rulemaking [REVOKED]
- 165:28-3-1. Rulemaking procedures [REVOKED]

SUBMITTED TO GOVERNOR:

February 7, 2013

SUBMITTED TO HOUSE:

February 7, 2013

SUBMITTED TO SENATE:

February 7, 2013

[OAR Docket #13-178; filed 2-7-13]

**TITLE 165. CORPORATION COMMISSION
CHAPTER 29. REMEDIATION OF
PETROLEUM STORAGE TANK RELEASES**

[OAR Docket #13-179]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Release Prevention, Detection and Correction
- Part 1. Release Prohibition, Reporting, and Investigation
- 165:29-3-2. Release reporting [AMENDED]
- Part 5. Corrective Action Requirements

Submissions for Review

165:29-3-81. Property owners affected by releases; notice [AMENDED]

Part 7. Licensing for Remediation Consultants

165:29-3-90. Licensing for Remediation Consultants involved with closures, investigation and the remediation of releases from underground or aboveground storage tanks [AMENDED]

SUBMITTED TO GOVERNOR:

February 7, 2013

SUBMITTED TO HOUSE:

February 7, 2013

SUBMITTED TO SENATE:

February 7, 2013

[OAR Docket #13-179; filed 2-7-13]

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

[OAR Docket #13-170]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Contributions

Part 3. Rates

240:10-5-11. Subject employer acquiring the experience rating account of another employer [AMENDED]

240:10-5-12. ~~Non-subject~~Non-subject entity acquiring the experience rating account of an employer [AMENDED]

240:10-5-15. Successor acquiring the experience rating account of predecessor [AMENDED]

SUBMITTED GOVERNOR:

February 5, 2013

SUBMITTED TO HOUSE:

February 5, 2013

SUBMITTED TO SENATE:

February 5, 2013

[OAR Docket #13-170; filed 2-6-13]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #13-195]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Licensing Procedures

380:1-9-1. [AMENDED]

SUBMITTED TO GOVERNOR:

February 8, 2013

SUBMITTED TO HOUSE:

February 8, 2013

SUBMITTED TO SENATE:

February 8, 2013

[OAR Docket #13-195; filed 2-8-13]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 25. BOILER AND PRESSURE
VESSEL RULES**

[OAR Docket #13-196]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Administration

380:25-3-5. [AMENDED]

380:25-3-15. [AMENDED]

Subchapter 19. Boiler Operator Licensing

380:25-19-1. [AMENDED]

SUBMITTED TO GOVERNOR:

February 8, 2013

SUBMITTED TO HOUSE:

February 8, 2013

SUBMITTED TO SENATE:

February 8, 2013

[OAR Docket #13-196; filed 2-8-13]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 50. ABATEMENT OF FRIABLE
ASBESTOS MATERIALS RULES**

[OAR Docket #13-197]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Contractor, Supervisor, and Worker Licensing and Requirements

380:50-5-5. [AMENDED]

Subchapter 6. Training Requirements

380:50-6-2. [AMENDED]

380:50-6-3. [AMENDED]

380:50-6-4. [AMENDED]

380:50-6-5. [AMENDED]

380:50-6-6. [AMENDED]

SUBMITTED TO GOVERNOR:

February 8, 2013

SUBMITTED TO HOUSE:

February 8, 2013

SUBMITTED TO SENATE:

February 8, 2013

[OAR Docket #13-197; filed 2-8-13]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 60. WORKERS'
COMPENSATION ENFORCEMENT
RULES**

[OAR Docket #13-198]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

380:60-1-7. [AMENDED]

380:60-1-8. [AMENDED]

380:60-1-9. [AMENDED]

SUBMITTED TO GOVERNOR:

February 8, 2013

SUBMITTED TO HOUSE:

February 8, 2013

SUBMITTED TO SENATE:

February 8, 2013

[OAR Docket #13-198; filed 2-8-13]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 70. ELEVATOR SAFETY ACT**

[OAR Docket #13-199]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Administration

380:70-3-5. [AMENDED]

Subchapter 5. Licenses

380:70-5-1. [AMENDED]

380:70-5-2. [AMENDED]

380:70-5-3. [AMENDED]

380:70-5-4. [AMENDED]

Subchapter 11. General Requirements

380:70-11-1. [AMENDED]

SUBMITTED TO GOVERNOR:

February 8, 2013

SUBMITTED TO HOUSE:

February 8, 2013

SUBMITTED TO SENATE:

February 8, 2013

[OAR Docket #13-199; filed 2-8-13]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 75. ALARM AND LOCKSMITH
INDUSTRY RULES**

[OAR Docket #13-200]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [NEW]

Subchapter 3. License Requirements [NEW]

Subchapter 5. Special Provisions [NEW]

Subchapter 7. Enforcement [NEW]

SUBMITTED TO GOVERNOR:

February 8, 2013

SUBMITTED TO HOUSE:

February 8, 2013

SUBMITTED TO SENATE:

February 8, 2013

[OAR Docket #13-200; filed 2-8-13]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #13-163]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Records and Inspections

240:1-3-6. Search fees [AMENDED]

GUBERNATORIAL APPROVAL:

January 3, 2013

[OAR Docket #13-163; filed 1-28-13]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 5. EMPLOYMENT SERVICE

[OAR Docket #13-164]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions

240:5-1-3. Registration for Work [AMENDED]

Subchapter 3. Internet Use

240:5-3-2. Time limit on Internet use [REVOKED]

240:5-3-3. Internet user prohibitions [AMENDED]

GUBERNATORIAL APPROVAL:

January 3, 2013

[OAR Docket #13-164; filed 1-28-13]

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

[OAR Docket #13-165]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions

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

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

Subchapter 3. Benefits

Part 5. Eligibility

240:10-3-22. Filing Claims ~~claims~~ for benefits [AMENDED]

240:10-3-23. Claims for ~~total~~ unemployment benefits - general requirements [AMENDED]

240:10-3-25. Payment of claim of deceased worker [REVOKED]

240:10-3-28. Application of payments made to repay an overpayment of benefits [AMENDED]

Part 9. Disqualification

240:10-3-43. Performed service and earned remuneration; reemployed and has earned wages [AMENDED]

Subchapter 5. Contributions

Part 3. Rates

240:10-5-10. Payment of contributions [AMENDED]

Part 7. Collection of Contributions

240:10-5-31. Claims for refund - procedure [AMENDED]

Part 19. Maintenance and Production of Work Records

240:10-5-90. Records [AMENDED]

240:10-5-91. Employer's Quarterly Contribution Wage Reports [AMENDED]

Subchapter 11. Assessment Board Procedure

Part 1. General Provisions

240:10-11-5. Jurisdiction [AMENDED]

Subchapter 13. Appeal Tribunal Procedure

Part 3. Appeals to Appeal Tribunal

240:10-13-20. Filing an appeal [AMENDED]

Part 5. Hearings

240:10-13-40. Reopen [AMENDED]

Part 9. Records of Appeal Tribunal

240:10-13-70. Transcript Recording of hearings [AMENDED]

240:10-13-71. Requests for copies of documents entered into evidence [AMENDED]

GUBERNATORIAL APPROVAL:

January 3, 2013

[OAR Docket #13-165; filed 1-28-13]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 21. WORKFORCE INVESTMENT ACT

[OAR Docket #13-166]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 9. Audits

240:21-9-2. Delinquent audit [AMENDED]

Gubernatorial Approvals

Subchapter 11. Grievance Procedure
Part 3. Grievances Filed Directorly with the OESC
240:21-11-10. Filing [AMENDED]
240:21-11-12. Contents of a grievance [AMENDED]
240:21-11-13. Referral of a grievance filed with OESC
[AMENDED]
Part 5. Appeals to the OESC from Grievance Decisions of a
Local Area
240:21-11-21. Appeals with OESC [AMENDED]
240:21-11-22. Time limit for filing an appeal with OESC
[AMENDED]

Part 7. Informal and Formal Resolutions of Grievances
240:21-11-30. Informal resolution [AMENDED]
240:21-11-31. Hearing [AMENDED]
GUBERNATORIAL APPROVAL:
January 3, 2013

[OAR Docket #13-166; filed 1-28-13]

Withdrawn Rules

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

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

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

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 20. FORESTRY

[OAR Docket #13-188]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

WITHDRAWN RULES:

Subchapter 17. Forest Resources Development Program
[AMENDED]

Subchapter 19. State Board of Registration for Foresters
[NEW]

DATES:

Adoption:

January 29, 2013

Submitted To Governor:

N/A

Submitted To House:

N/A

Submitted To Senate:

N/A

Withdrawn:

February 7, 2013

[OAR Docket #13-188; filed 2-7-13]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. MARKET DEVELOPMENT

[OAR Docket #13-189]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

WITHDRAWN RULES:

Subchapter 5. Agriculture Enhancement and
Diversification Advisory Program [AMENDED]

DATES:

Adoption:

January 29, 2013

Submitted To Governor:

N/A

Submitted To House:

N/A

Submitted To Senate:

N/A

Withdrawn:

February 7, 2013

[OAR Docket #13-189; filed 2-7-13]

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

[OAR Docket #13-171]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-25. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
317:30-5-122. [AMENDED]
(Reference APA WF # 12-09)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1902 of the Social Security Act

DATES:

Adoption:

December 13, 2012

Approved by Governor:

January 28, 2013

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:

The Agency finds that a compelling public interest exists and finds that an imminent peril exists to the preservation of the public health, safety, or welfare which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to the agency's Medicare Crossover payment policy. These emergency rule revisions will ensure OHCA policy allows proper funding for skilled nursing facilities and ensure services will be maintained for SoonerCare members residing in the facilities.

ANALYSIS:

Policy will be amended to allow 100% payment of Medicare Crossover deductibles and coinsurance at skilled nursing facilities. Current policy allows payment at the Medicaid rate, which was previously adjusted to 0%. The rationale behind current policy is based on a federal policy that allowed federal reimbursement/write-offs for bad debts. That federal policy is no longer in effect and has prompted the policy amendment request.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-25. Crossovers (coinsurance and deductible)
(a) **Medicare Part B.** Payment is made for Medicare deductible and coinsurance on behalf of eligible individuals.
(b) **Medicare Part A.** Payment is made for Medicare deductible and coinsurance on behalf of eligible individuals, ~~limited to the Medicaid allowable reimbursement for services in a skilled nursing facility.~~
(c) **Medicare Advantage Plans.** Payment is made for Medicare HMO co-payments. For services offered by Medicare Advantage Plans that revert to traditional Medicare type benefits, payment is made for coinsurance and deductibles according to subsection (a) and (b) in this section.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG TERM CARE FACILITIES

317:30-5-122. Levels of care

(a) This rule sets forth the criteria used to determine whether an individual who is seeking SoonerCare payment for long term care services needs services at the level of Skilled Nursing Facility, or Intermediate Care Facility for People with Mental Retardation (ICF/MR). The criteria set forth in this Section must be used when determining level of care for individuals seeking SoonerCare coverage of either facility-based institutional long term care services or Home and Community Based Services (HCBS) Waivers.

Emergency Adoptions

(b) The level of care provided by a long term care facility or through a HCBS Waiver is based on the nature of the person's needs and the care, services, and treatment required from appropriately qualified personnel. The level of care review is a determination of an individual's physical, mental and social/emotional status to determine the appropriate level of care required. In addition to level of care requirements, other applicable eligibility criteria must be met.

(1) **Skilled Nursing facility.** ~~When total payments from all other payers are less than the Medicaid rate, payment~~ Payment is made for the Part A coinsurance and deductible for Medicare covered skilled nursing facility care for dually eligible, categorically needy individuals.

(2) **Nursing Facility.** Care provided by a nursing facility to patients who require professional nursing supervision and a maximum amount of nonprofessional nursing care due to physical conditions or a combination of physical and mental conditions.

(3) **Intermediate Care Facility for the Mentally Retarded.** Care for persons with intellectual disabilities or related conditions to provide health and/or habilitative services in a protected residential setting. To qualify for ICF/MR level of care, persons must have substantial functional limitations in three or more of the following areas of major life activity:

(A) Self-care. The individual requires assistance, training or supervision to eat, dress, groom, bathe, or use the toilet.

(B) Understanding and use of language. The individual lacks functional communication skills,

requires the use of assistive devices to communicate, does not demonstrate an understanding of request or is unable to follow two-step instructions.

(C) Learning. The individual has a valid diagnosis of intellectual disability as defined in the Diagnostic and Statistical Manual of Mental Disorders.

(D) Mobility. The individual requires the use of assistive devices to be mobile and cannot physically self-evacuate from a building during an emergency without assistive device.

(E) Self-direction. The individual is 7 years old or older and significantly at risk in making age appropriate decisions or an adult who is unable to provide informed consent for medical care, personal safety or for legal, financial, habilitative or residential issues and/or has been declared legally incompetent. The individual is a danger to himself or others without supervision.

(F) Capacity for independent living. The individual who is 7 years old or older and is unable to locate and use a telephone, cross the street safely or understand that it is unsafe to accept rides, food or money from strangers or an adult who lacks basic skills in the areas of shopping, preparing food, housekeeping or paying bills.

[OAR Docket #13-171; filed 2-6-13]

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

1:2011-19A.

AMENDED EXECUTIVE ORDER 2011-19

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby establish the Governor's Unmanned Aerial System Council.

The Council shall consist between ten (10) and fifteen (15) members, who shall be appointed by the Governor and serve at the pleasure of the Governor. The Secretary of Science and Technology shall chair the Council and will select a vice-chair.

The purpose of the Council shall be to review all aspects of the development of Unmanned Aerial Systems (UAS) and related technologies in the state, from education to economic development, job creation and capital investment, and propose recommendations to the Governor. As part of this process the Council shall define and periodically review a UAS Roadmap for the State of Oklahoma, and present such a Roadmap, and any proposed changes to existing Roadmaps, to the Governor for approval. The Council shall also act in an advisory capacity to the Governor on all issues related to UAS and related technology and economic development.

Administrative support for the Council, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Council, shall be provided by the Oklahoma Department of Commerce.

Council members will be selected from various areas including higher education, the private sector and appropriate federal agencies located in the state. Council members employed by a state agency shall be reimbursed travel expenses related to their service on the Council by their respective state agency as authorized by state law. Council members employed by a federal agency shall be reimbursed travel expenses related to their service on the Council by their respective federal agency as authorized by federal law. Legislative members of the Council shall be reimbursed by their respective legislative bodies for necessary travel expenses incurred in the performance of their duties as authorized by state law. Remaining Council members shall be reimbursed travel expenses related to their service on the Council as authorized by state law by the Oklahoma Department of Commerce.

FURTHER, the Secretary of Science and Technology shall also serve as the State Director of UAS Development. As State Director of UAS Development the Secretary shall be responsible for:

- a) Oversight of any federal, or state, approved UAS test site located within the State of Oklahoma;
- b) Establishing policy and procedural guidance for any federal, or state, approved UAS test site located within the State of Oklahoma;
- c) Coordination of individual or collaborative efforts of governmental and/or private entities with organizational or financial interests in any federal, or state, approved UAS test site located within the State of Oklahoma;
- d) Serving as the single point of contact for all UAS testing activities, or proposed activities, affecting the State of Oklahoma.

FURTHER, the Oklahoma Department of Commerce shall provide such personnel, resources, administrative rules, or other support as may be required by the State Director of UAS Development, in consultation with the Executive Director of the Oklahoma Department of Commerce, to implement or effectuate this Executive Order.

This Executive Order shall be distributed to the Secretary of Science and Technology and the Oklahoma Department of Commerce, who shall cause the provisions of this Order to be implemented.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 5th day of February, 2013.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

MARY FALLIN

ATTEST:
Michelle R. Day
Secretary of State

[OAR Docket #13-167; filed 2-5-13]

Executive Orders

1:2013-3.

EXECUTIVE ORDER 2013-3

I, Mary Fallin, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution and Sections 3316 and 3317 of Title 74 of the Oklahoma Statutes, hereby establish the Governor's Impaired Driving Prevention Advisory Council.

The purpose of the Council shall be to reduce the incidence of impaired driving and associated traffic crashes in the State of Oklahoma. Traffic deaths due to impaired driving continue to decrease nationwide; however, Oklahoma's death rate per 100,000 people has increased significantly. Oklahoma's impaired driving death rate is higher than 46 other states, and Oklahoma ranks 51st for improvement in this category over the last 10 years.

These statistics only reflect *alcohol* impaired fatalities and do not reflect the increasing contribution of *prescription and illicit drugs* to the incidence of impaired driving and associated traffic crashes in the State of Oklahoma. This is an alarming trend, particularly since Oklahoma was the highest ranked state for nonmedical use of prescription painkillers in 2010 and ranked 9th in overall national drug overdose rates during the same year.

The Governor's Council shall consist of not more than 10 members. All members shall be appointed and serve at the pleasure of the Governor. Members shall have training and experience in matters related to impaired driving; this may include persons who are or have been engaged in fields related to law enforcement, adjudication, substance abuse services, or an individual who has been affected by substance abuse. The Council shall be subject to sunset review two years from the date of this Executive Order.

The Council shall meet at such times and places as it deems appropriate. Members shall serve without compensation. Council members employed by a state agency shall be reimbursed travel expenses related to their service on the Council by their respective state agency as authorized by state law. Legislative members of the Council shall be reimbursed by their respective bodies for necessary travel expenses related to their service on the Council as authorized by state law. Remaining Council members shall be reimbursed travel expenses related to their service on the Council as authorized by state law by the Oklahoma Highway Safety Office.

The Oklahoma Highway Safety Office shall work with the Council to create the organizational framework necessary to ensure efficient and effective operations, including bylaws and operating procedures. Administrative support for the Council, including personnel necessary to ensure the proper performance of the duties and responsibilities of the Council, shall be provided by the Oklahoma Highway Safety Office.

The Secretary of Safety and Security shall appoint the initial chair and vice chair.

The Council shall collect, analyze, and interpret national, state, and local data on impaired driving and associated traffic crashes. In addition, the Council shall review, evaluate, and monitor the impaired driving system of this state; develop, implement, and oversee a plan for addressing identified gaps in the State's impaired driving system; and provide a network of communication and cooperation among the various stakeholders to coordinate and integrate state and local efforts and resources to reduce the incidence of impaired driving and associated traffic crashes.

The Council shall complete and submit the statewide plan for reducing the incidence of impaired driving and associated traffic crashes to the Governor within one year of the date of this Order. The Council shall act in an advisory capacity to the Governor on all issues including, but not limited to, the creation, implementation, evaluation, and revision of the statewide plan.

This Executive Order shall be distributed to the Oklahoma Highway Safety Office, which shall cause the provisions of this Order to be implemented.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 5th day of February, 2013.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Secretary of State

[OAR Docket #13-168; filed 2-5-13]

1:2013-4.

EXECUTIVE ORDER 2013-04

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. to 5:00 p.m. on Friday, February 15, 2013, to honor Former State Senator Jimmy Birdsong, who passed away on Saturday, February 9, 2013.

Jimmy Birdsong served in the Army during World War II. He earned a Purple Heart and a Bronze Star while serving his country. He was elected to serve the Senate in 1965 serving until 1981. He served as the Assistant Majority Floor Leader from 1969 to 1972 and Majority Floor Leader from 1973

to 1974. His service to this country and to our state will be missed.

This executive order shall be forwarded to the Department of Capital Assets Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 14th day of February, 2013.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Secretary of State

[OAR Docket #13-201; filed 2-14-13]
