

Volume 32
Number 2
October 1, 2014
Pages 9 - 46

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



Mary Fallin, Governor
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Secretary of State
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ISSN 0030-1728

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Notices of Rulemaking Intent

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

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

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

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #14-860]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

252:410-1-7. Incorporation of federal regulations by reference [AMENDED]

Subchapter 10. Radioactive Materials Program

Part 1. General Provisions

252:410-10-1. Radioactive Materials Program [AMENDED]

Part 37. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material [NEW]

252:410-10-37. 10 CFR 37 incorporations by reference [NEW]

Part 40. Domestic Licensing of Source Material

252:410-10-40. 10 CFR 40 incorporations by reference [AMENDED]

Part 101. Radioactive Materials Program Fees

252:410-10-121. State agreement annual registration fee for generally licensed devices [AMENDED]

SUMMARY:

The proposed rulemaking consists of four main elements. (1) The first element is to amend Chapter 410, Subchapter 1 (General Provisions) [See OAC 252:410-1-7(a)] to change the date for incorporation of federal regulations by reference to January 1, 2014. (2) The second element of this rulemaking is to make a correction in Subchapter 10 (Radioactive Materials Program) [See OAC 252:410-10-1(b)] from last year's rulemaking to exclude the definitions of "Construction" and "Commencement of Construction" which are reserved to the NRC. Also, in OAC 252:410-10-1(b) a new exclusion has been inserted pursuant to 10 CFR Part 37. (3) The third element of this rulemaking is to amend Subchapter 10, Part 1 (General Provisions) to conform the Oklahoma rules to the updated federal regulations which includes revisions to 10 CFR Parts 30, 40, and 71, and the addition of a new Part 37 that was established to provide physical protection for certain quantities of radioactive materials. (4) The fourth element is to amend Subchapter 10, Part 101 (Radioactive Materials Program Fees) [See OAC 252:410-10-121] to change the due

date for the annual fee payment for generally licensed devices to the anniversary date of registration.

AUTHORITY:

Environmental Quality Board and Radiation Management Advisory Council powers and duties, 27A O.S. §§2-2-101, 2-2-104, 2-2-201, 2-9-104, and 2-9-105.

COMMENT PERIOD:

Written comments may be submitted to the contact person from October 6, 2014, through November 5, 2014. Oral comments may be made at the Radiation Management Advisory Council meeting on November 6, 2014, and the Environmental Quality Board meeting on February 20, 2015.

PUBLIC HEARINGS:

Before the Radiation Management Advisory Council on November 6, 2014, at 10:00 a.m., in the Multi-Purpose Room, first floor of the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board meeting on February 20, 2015, at 9:30 a.m., in the Multi-Purpose Room, first floor of the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPY OF PROPOSED RULE:

The proposed rule may be obtained from the contact person, reviewed in person at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at the DEQ website at www.deq.state.ok.us/LPDnew/LPPProprules.htm.

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rule will be on file at the Department of Environmental Quality and may be requested from the contact person or reviewed online at the DEQ website at www.deq.state.ok.us/LPDnew/LPPProprules.htm.

CONTACT PERSON:

Contact Mike Broderick, Environmental Programs Manager, Radiation Management Section, Land Protection Division at mike.broderick@deq.ok.gov or (405) 702-5100 (phone) or (405) 702-5101 (fax). The DEQ is located at

Notices of Rulemaking Intent

707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. The TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #14-860; filed 9-8-14]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 265. HEARING AID DEALERS AND FITTERS

[OAR Docket #14-855]

RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Examinations
- 310:265-3-1 [AMENDED]
- 310:265-3-2 [AMENDED]

SUMMARY:

The purpose of this rule change is to prevent an increase in examination fees charged to applicants for licenses to fit and deal hearing aids pursuant to Title 63 § 1-1750 et seq. The vendor has refused to renew its contract with the Oklahoma State Department of Health unless the Department agrees to allow the vendor to raise the examination fees from the current \$95 as provided in rule, to \$225. The proposed rule will prevent the Oklahoma State Department of Health from being required by the examination vendor to defend the examination questions and answers against requests made under the Oklahoma Open Records Act. Additionally, the proposed rule prevents the Oklahoma State Department of Health from being financially liable for damages to the examination vendor should the Department not succeed in preventing disclosure under the Oklahoma Open Records Act. The proposed changes accomplish these purposes by deleting the business name of a specific examination vendor, and by allowing for testing guidelines to be drawn from a national examination, if available, rather than from a specifically named society. The changes will facilitate the Department's efforts to compile and offer an examination without fee increases, and without exposing the State of Oklahoma to financial loss related to an Oklahoma Open Records Act disclosure.

310:265-3-1. The current rule identifies a particular third party examiner to be solely responsible for the written examination scores. The proposed language will remove mention of any specific third party examiner. The effect of this rule change will allow the Department to identify an

adequate examination without increasing the examination fee for applicants.

310:265-3-2. The current rule specifies the state written examination shall follow National Hearing Aid Society guidelines and other similar examinations given by surrounding states. The proposal removes reference to the national examining body.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-1750.

COMMENT PERIOD:

October 1, 2014, through November 5, 2014. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through November 5, 2014, submit written comment to the contact person identified below; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on November 5, 2014, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 5, 2014, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contract person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available through the contact person identified.

CONTACT PERSON:

Donald D. Maisch, General Counsel, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-6017, e-mail: DonM@health.ok.gov.

[OAR Docket #14-855; filed 9-8-14]

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

[OAR Docket #14-856]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 310:406-1-2 [AMENDED]
- Subchapter 3. Advisory Committee Operations
- [REVOKED]
- 310:406-3-1 [REVOKED]
- 310:406-3-2 [REVOKED]
- 310:406-3-3 [REVOKED]
- 310:406-3-4 [REVOKED]
- 310:406-3-5 [REVOKED]
- Subchapter 23. Enforcement
- 310:406-23-2 [AMENDED]
- 310:406-23-5 [AMENDED]

SUMMARY:

310:406-1-2 The current rule defines the advisory entity as the Genetic Counseling Advisory Committee. The proposal establishes to remove the definition. The new advisory council is outlined in the Oklahoma Public Health Advisory Council Modernization Act. This change is necessary to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the legal advisory entity as the Infant and Children's Health Advisory Council.

310:406 Subchapter 3 [REVOKED] - The current rule identifies the title of the advisory entity as a committee. The proposal revokes the subchapter. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act which created the new Infant and Children's Health Advisory Council with advisory responsibilities for licensed genetic counseling. The effect of the Rule change would be to clarify the legal advisory entity as a council.

310:406-3-1 [REVOKED] The current rule creates the Genetic Counseling Advisory Committee. The proposal removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the purpose of the newly established council.

310:406-3-2 [REVOKED] The current rule defines the membership of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act establishes the membership of the newly established Infant and Children's Health Advisory Council. The effect of the Rule change would be to revoke the

membership of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-3-3 [REVOKED] The current rule defines the officers of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act already establishes the officers of the newly established Infant and Children's Health Advisory Council. The effect of the Rule change would be to revoke the officer designation of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-3-4 [REVOKED] The current rule states the "committee" will utilize Robert's Rules of Order Newly Revised, 10th ed. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act establishes the new Infant and Children's Health Advisory Council.

310:406-3-5 [REVOKED] The current rule defines subcommittee responsibilities of the Genetic Counseling Advisory Committee. The proposal revokes this subchapter. This change is needed because the Oklahoma Public Health Advisory Council Modernization Act establishes the Infant and Children's Health Advisory Council. The effect of the Rule change would be to revoke the subcommittee responsibilities of the Genetic Counseling Advisory Committee which is no longer supported in the Act.

310:406-23-2 The current rule states the "committee" may be consulted in regards to complaints present to the Department. The proposal removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act and ensure the council's duties are in line with the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the duties of the newly established council.

310:406-23-5 The current rule states the Department may consult the "committee" in regards to hearings conducted by the Department. The proposal removes this language. This change is needed to be in compliance with the changes established in the Oklahoma Public Health Advisory Council Modernization Act and ensure the council's duties are in line with the Oklahoma Public Health Advisory Council Modernization Act. The effect of the Rule change would be to clarify the duties of the newly established council.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-561 and Title 63 O.S. Section 1-103.a.1.

COMMENT PERIOD:

October 1, 2014, through November 5, 2014. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through November 5, 2014, submit written comment to the contact person identified below; or may, at the hearing, ask to present written or oral views.

Notices of Rulemaking Intent

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on November 5, 2014, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 5, 2014, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available through the contact person identified.

CONTACT PERSON:

Lynnette Jordan, Administrative Programs Manager, Occupational & Consumer Protection Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-5779, or by e-mail to lynnette@health.ok.gov.

[OAR Docket #14-856; filed 9-8-14]

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

[OAR Docket #14-857]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Oklahoma Dental Loan Repayment Program
310:526-3-2 [AMENDED]
310:526-3-3 [AMENDED]
310:526-3-4 [AMENDED]

SUMMARY:

310:526-3-2 The current Rule sets forth the description and general operation of the Oklahoma Dental Loan Repayment Program (Program). The proposed action expands the locations of practice sites and increases the maximum amount allowed of individual awards from \$25,000 to \$50,000. The circumstance for the rule change is compelled by legislation in SB 1664, effective November 1, 2014. The intended effect is to increase Program participation, allow a more competitive compensation, and better utilize available funding.

310:526-3-3 The current rule establishes eligibility requirements to participate in the Program. The proposed action allows an exemption from the requirement to practice in a designated dental health professional shortage area for Pediatric Dentistry Specialists or any dentist practicing in a Federally Qualified Health Center (FQHC), FQHC look-alike, County health department, or City-County health department. The intended effect is to include participation by specialists trained to treat the younger Medicaid population and those practicing in specific public health facilities regardless of the practice site location.

310:526-3-4 The current Rule describes the procedures for administering the Program. The proposed action describes what is monitored to determine the dental health professional shortage areas for purposes of the Oklahoma Dental Loan Repayment Program instead of how the determination is calculated. This change is needed to resolve complicated, technical, and outdated language. The purpose is to improve the understanding of shortage area determinations while upholding the intent of the law. The description of annual shortage area calculations will be maintained in agency files to ensure consistency with the use of current available data, current advisory entities, and topical circumstances associated with Medicaid dental providers and enrollees.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Sections 1-104 and 1-2710 et seq. as amended by Senate Bill 1664, effective November 1, 2014.

COMMENT PERIOD:

October 1, 2014, through November 5, 2014. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through November 5, 2014, submit written comment to the contact person identified below; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on November 5, 2014, at the Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 5, 2014, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Susan Potter, ODLRP Manager, Dental Health Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-5502, email susanp@health.ok.gov.

[OAR Docket #14-857; filed 9-8-14]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 600. ABORTION FACILITY REGULATIONS

[OAR Docket #14-858]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 15. Abortion Medical Procedure Standards [NEW]
- 310:600-15-1 [NEW]
- 310:600-15-2 [NEW]
- 310:600-15-3 [NEW]
- 310:600-15-5 [NEW]
- 310:600-15-5 [NEW]
- 310:600-15-6 [NEW]

SUMMARY:

The new rules are proposed to implement the requirements of HB 1848 [which will become effective on November 1, 2014 and is codified at Title 63 of the Oklahoma Statutes, Section 1-748 (63 O.S. § 1-748)], passed during the 2014 session of the Oklahoma Legislature. The requirements in proposed new rule 310:600-15-1 will only apply to abortion facilities, as that term is defined in regulations. Currently, there are three such licensed facilities in the State of Oklahoma. 310:600-15-1, is proposed to meet the requirements contained

at 63 O.S. § 1-748 (A) and mandates the supplies, medications and equipment required during the abortion procedure itself; the procedure in the recovery room after the abortion has been performed; and the post-abortion procedure after the patient has left the facility (including any follow-up visits with the physician). The remaining proposed rules, 310:600-15-2 through 310:600-15-6 apply to any facility where an abortion is performed. These rules are proposed to cover: the training required for a physician assistant of a physician that performs abortions; training required for volunteers at facilities where abortions are performed; requirements to medically screen and evaluate potential patients who wish to receive an abortion; adequate staff, equipment, supplies and medications are available; pain management; intravenous access; monitoring the patient through the process; use of Ultrasound equipment; and hospitalization, in the event an emergency occurs;

Additionally, pursuant to the remaining requirements of 63 O.S. § 1-748, the proposed rules will cover the standards for recovery room procedure, including: the monitoring of patient's vital signs, the monitoring for possible reaction to sedation medication, supervision of the patient, which includes a person capable in providing cardiopulmonary resuscitation in the recovery room, the physician to establish protocols for length of time to remain in recovery room, and documentation of patient's health prior to discharge; and the requirements for the "after the discharge of the patient" which includes: making available Rh-immunoglobulin, providing written instruction on post procedure sexual activity, providing written contact information in the event complications occur, contacting with the patient within 24 hours of the procedure, and scheduling a follow-up visit with the patient.

Finally, the proposed rules will establish requirements concerning the patient's follow-up visit, including, testing to ensure pregnancy was terminated and recordkeeping and reporting requirements.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-701 *et seq.*, specifically 63 O.S. § 1-748, effective November 1, 2014.

COMMENT PERIOD:

October 1, 2014, through November 5, 2014. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through November 5, 2014, submit written comment to the contact person identified below; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on November 5, 2014, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in

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writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 5, 2014, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contract person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available through the contact person identified.

CONTACT PERSON:

Donald D. Maisch, General Counsel, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-6017, e-mail: DonM@health.ok.gov.

[OAR Docket #14-858; filed 9-8-14]

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

[OAR Docket #14-859]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 59. Classification of Hospital Emergency Services
310:667-59-20 [AMENDED]

SUMMARY:

The amendments to OAC 310:667 revise sections of rule within Subchapter 59, Classification of Hospital Emergency Services, to update classification standards for stroke centers. These standards are intended to stratify hospitals into those hospitals capable of providing comprehensive care for all stroke patients from those with limited or no capability to care for the acutely ill, time sensitive stroke patient.

The proposed rules would allow the Oklahoma State Department of Health (OSDH) to recognize four levels of hospital based stroke care. Level I would be a comprehensive center capable of care for all stroke patients. The Level II would represent the most current standard required to be a primary stroke center. OSDH will recognize certification

from a Center for Medicare and Medicaid Services deemed accrediting agency or an OSDH approved organization using nationally recognized guidelines for Level I and II facilities.

The Level III stroke facility will be mainly focused on the acute care of a patient presenting to the emergency room who is likely to benefit from stabilization and expeditious thrombolytic therapy prior to transfer to a higher level of care. The Level IV hospital reflects a facility without the resources to provide acute care for the time sensitive needs of the stroke patient. They would be organized to quickly evaluate, stabilize and arrange transfer of the acute stroke patient. OSDH would recognize a Level III facility by way of a current certification as an Acute Stroke Ready Hospital from a deemed accrediting agency, a department approved nationally recognized guidelines based organization or through OSDH. The Level IV facility would be certified only by OSDH.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; Title 63 O.S. Section 1-270; and Title 63 O.S. Section 1-705.

COMMENT PERIOD:

October 1, 2014, through November 5, 2014. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through November 5, 2014, submit written comment to the contact person identified below; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on November 5, 2014, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 beginning at 10:00 a.m. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through November 5, 2014, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contract person identified below or via the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Timothy Cathey, M.D., Medical Director, Protective Health Services, Oklahoma State Department of Health, 1000 N.E.

10th Street, Oklahoma City, OK 73117-1207, or by e-mail to TimC@health.ok.gov.

[OAR Docket #14-859; filed 9-8-14]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to "final adoption," as defined in 75 O.S., Section 250.3(5), by notifying the Governor and the Legislature, and by publishing a notice of such a withdrawal in the *Register*.

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. However, the withdrawal notice is not published in the *Register* 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 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #14-849]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

WITHDRAWN RULES:

Subchapter 1. General Provisions

770:1-1-1 [AMENDED]

Subchapter 3. Organizational Structure

770:1-3-2 [AMENDED]

Subchapter 5. Open Records Act

770:1-5-1 [AMENDED]

DATES:

Adoption:

August 15, 2014

Submission of adopted rules to Governor and Legislature:

August 21, 2014

Withdrawn:

August 28, 2014

[OAR Docket #14-849; filed 8-28-14]

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

[OAR Docket #14-848]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

WITHDRAWN RULES:

Subchapter 1. General Provisions

770:10-1-3 [AMENDED]

770:10-1-4 [AMENDED]

Subchapter 3. Maintenance Charges, Patient Funds and
Assets

770:10-3-1 [AMENDED]

DATES:

Adoption:

August 15, 2014

Submission of adopted rules to Governor and Legislature:

August 21, 2014

Withdrawn:

August 28, 2014

[OAR Docket #14-848; filed 8-28-14]

Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its 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 cites to the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

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

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #14-854]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions
210:10-1-18. Transfers [AMENDED]

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 8-103; 70 O.S. § 8-103.1; 70 O.S. § 8-104; 70 O.S. § 8-113; 70 O.S. § 18-110; 70 O.S. § 13-101; 70 O.S. § 1210.307

ADOPTION:

July 23, 2014

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

August 25, 2014

EXPIRATION:

Effective through September 14, 2015, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 1. General Provisions
210:10-1-18. Transfers [AMENDED]

Gubernatorial approval:

July 24, 2013

Register publication:

30 Ok Reg 2165

Docket number:

13-1146

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

Pursuant to 75 O.S. § 253(c), the proposed rule is necessary as an emergency measure to implement provisions of HB 2626 (2014) that will go into effect on November 1, 2014.

The proposed changes to the rule are necessary as an emergency measure pursuant to the provisions of 75 O.S. § 253(A)(1)(a) and (c). The amendments are necessary to incorporate the 2014 amendments to the deadlines for submission and approval of student transfers set forth in the Education Open Transfer Act at 70 O.S. § 8-103. In 2013, those deadlines were amended by two different bills: HB 1422 and SB 280. The amendments set forth in HB 1422 were subsequently repealed in 2014 by HB 2626.

The amendments are also necessary to implement 70 O.S. § 8-104, a new law added to protect public safety of public school students by ensuring that students who have been the victims of harassment, intimidation, or bullying as

defined in 70 O.S. § 24-100.3 can seek an emergency transfer to another school district; and the Deployed Parents School Act at 70 O.S. § 103.1.

ANALYSIS:

The proposed amendments to the rule revise the deadlines for submission and approval of applications for student transfers pursuant to the Education Open Transfer Act. The proposed amendments to the rule also add a procedure to implement the provisions of HB 1422 (2013), whereby a student who has been the victim of harassment, intimidation, and bullying may request an emergency transfer to another school district if the sending school district was notified of the incident/incidents before the student files the application for transfer. Further, the proposed amendments add a provision implementing the Deployed Parents School Act at 70 O.S. § 103.1 (SB 759), which permits transfers of students to a district in which the student will be residing with a relative if the student is a dependent children of a temporarily deployed full-time active duty member of the military. The amendments also add language to the rule to clarify other statutory bases for transfers and to clarify when certain emergency transfers require other action or approval from a sending district.

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, (405) 521-4890

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(F):

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-18. Transfers

(a) **Governing statutes.** All district transfers shall be governed by the Oklahoma Education Open Transfer Act, 70 O.S. § 8-101.1, et seq. In addition, the following types of transfers are governed by the following provisions of law:

(1) **Students with disabilities.** Transfers made for the purpose of providing a free appropriate public education (FAPE) to special education students shall be governed by 70 O.S. § 18-110 and 70 O.S. § 13-101, et seq. Such transfers shall not be considered open transfers subject to the provisions of (d) of this Section.

(2) **Gifted and talented students.** Transfers made for the purpose of providing gifted child educational programs shall be governed by 70 O.S. § 1210.307.

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- (3) **Parents who are teachers.** Transfers for the purpose of allowing a student to attend school in a district in which the student's parent is employed as a teacher shall be governed by 70 O.S. § 8-113.
- (4) **Deployed parents.** Transfers for the purpose of allowing a student of a deployed parent to attend school in a district in which a family member resides shall be governed by 70 O.S. § 8-103.1.
- (5) **Emergency transfers.** Transfers on the basis of an emergency shall be governed by 70 O.S. § 8-104.
- (6) **Sibling transfers.** Transfers of siblings pursuant to the provisions of 70 O.S. § 8-101.2 shall be processed as open transfers in accordance with the requirements of 70 O.S. § 8-103 and (d) of this Section, provided that in the event such a transfer request is for the purpose of ensuring placement of multiple birth siblings in the same school and/or classroom, the transfer may be processed in accordance with the procedures set forth at 70 O.S. § 24-154(A) in lieu of the open transfer procedures.
- (b) **District policies and procedures pertaining to student transfers.** Local school districts shall adopt policies and procedures governing the transfer of students who do not reside in the school district. Such policies and procedures shall comply with all provisions of state law governing student transfers, including the statutes pertaining to transfers referenced in (a) of this Section. If permitted by statute and the provisions of this Section, the receiving school board of education may refuse the transfer request of a student who does not reside in the district in accordance with the provisions of the adopted policy, but may not accept or deny a request based on statutorily prohibited factors as set forth in 70 O.S. § 8-103.1.
- (bc) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise: definitions shall apply in State Department of Education rules relating to transfers:
- (1) **Open Transfer** The transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue. An open transfer may be requested and approved only during the statutory timeframe.
- (1) **"Active duty orders"** means temporary transfer of a member of the active uniformed military services of the United States to a location that is outside of the service member's school district of residence in compliance with official orders in support of combat, contingency operation or a natural disaster that requires the use of orders for more than thirty (30) consecutive days.
- (2) **"Deployed parent"** means a "parent" under the definition set forth in this subsection who is a member of the active uniformed military services of the United States, is on full-time active duty status or active duty orders, and for whom Oklahoma is the home of record.
- (23) **"Emergency transfer"** ~~Transfer~~ means the transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue which, for specific reasons, must be requested and approved outside of the statutory timeframe required for open transfers.
- (34) **"IEP service agreement"** ~~Service Agreement~~ means an Individualized Education Program agreement between school districts to provide special education and related services to an eligible student with a disability solely for the purpose of providing the student a free appropriate public education (FAPE). An IEP Service Agreement is the resourcing of special education and related services (i.e., all services required to be provided to a student pursuant to the provisions of the IDEA) to a school district that provides special education and related services to an eligible student with a disability on behalf of the resident district.
- (5) **"Open transfer"** means the transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue. An open transfer may be requested and approved only during the statutory timeframe.
- (4) **"Special Education and Related Services"** All means all services required to be provided pursuant to the Individuals with Disabilities Education Act (IDEA) U.S.C. §§ 1400, et seq.
- (6) **"Parent"** means the parent, legal guardian, or person having custody of the student seeking a transfer, whose residence is used to determine the residence of the student in accordance with the provisions of 70 O.S. § 1-113(A)(1). For purposes of the Individuals with Disabilities Act at 20 U.S.C. § 1400 et seq. (IDEA), the definition of parent set forth in 34 C.F.R. § 300.30 shall supersede the definition of parent set forth in this subsection.
- (57) **"Receiving school district"** ~~School—District~~ means the school district in which the student is seeking to be transferred.
- (68) **"Resident school district"** ~~School—District~~ means the school district in which the parent, guardian, or person having custody of the student resides, as defined in 70 O.S. § 1-113(A)(1).
- (7) **Parent** For purposes of the Education Open Transfer Act, this includes the parent, guardian, or person having custody of the student, as defined in 70 O.S. § 1-113(A)(1). For purposes of IDEA, the definition of parent set forth in 34 C.F.R. § 300.30 shall supersede this rule.
- (9) **"Teacher"** means any person employed in a position that meets the definition of a teacher set forth in 70 O.S. § 1-116.
- (ed) **Open Transfers.** Transfers to another district may be approved by the board of education of the receiving school district. If the grade a student is entitled to pursue is not offered in the district where the student resides, the transfer shall be automatically approved by the receiving school district. No student may be granted more than one (1) open transfer per school year, but may qualify for additional transfers pursuant to emergency provisions of the Education Open Transfers Act or a legal change in residence. All open transfers must be initiated and processed in accordance with the following procedures:

- (1) The parent of the student must complete an application form specified by the State Board of Education. The application must be ~~submitted to~~ filed with the receiving school district by ~~April 1~~ May 31 of the school year preceding the school year for which the transfer is being requested.
 - (2) No later than May 31 of the same year in which the transfer is requested, the ~~The~~ receiving school district shall notify the resident school district that an application for transfer has been filed by the student enrolled in the resident school district.
 - (3) No later than July 15 of the same year in which the transfer is requested, the ~~The~~ board of education of the receiving school district shall approve or deny the application ~~no later than June 1 of the same year~~ and notify the parents of the student of the decision in writing.
 - (4) No later than August 1 of the same year in which the transfer is requested, the ~~The~~ parents of the student shall ~~confirm enrollment in writing with~~ provide the receiving school district with written notification that the student will be enrolling in the receiving school district by July 1 of the same year. Failure of the parents to notify may result in the loss of the student's right to enroll in the school district for that year only. If a parent fails to notify the receiving school district that a student will be enrolling, and the receiving school district chooses to cancel the transfer, the receiving school district shall provide a written notice of the cancellation to the parent and the resident district immediately upon cancellation.
 - ~~(5) Local school districts shall adopt a policy governing the transfer of students who do not reside in the school district. A receiving school board of education may refuse the transfer request of a student who does not reside in the district in accordance with the provisions of the adopted policy, but may not accept or deny a request based on statutorily prohibited factors as set forth in 70 O.S. § 8-103.1.~~
 - (6) Approval of the resident district is not required for an open transfer.
 - ~~(7) Transfer requests submitted outside of the statutory time frame for open transfers will not be considered timely and must meet the statutory criteria of an emergency transfer to be approved.~~
 - (7) Notwithstanding the provisions of this subsection, a student shall be allowed to transfer to a school district in which a parent of the student is employed as a teacher upon the approval of the receiving district only, without regard to the deadlines or other limitations on number of transfers set forth in this subsection.
- (d) **Emergency Transfers and mandatory transfers.** In addition to the open transfer process, students may be transferred on an emergency basis; as prescribed by statute or on the basis of a transfer mandated by statute. Emergency transfers must be initiated and processed in accordance with the following procedures:
- (1) The parents of the student may make an application for an emergency transfer. The application for emergency transfer must be filed with the superintendent of the receiving school district.
 - (2) The superintendent of the receiving school district or his/her designee responsible for approving transfers may approve the emergency transfer only upon an adequate showing of emergency, and subject to approval of the State Board of Education.
 - (3) Only the superintendent of the receiving school district or his/her designee responsible for approving transfers may submit an application for emergency transfer to the State Board of Education for approval. The superintendent or designee of the receiving school district shall collect documentation from the student desiring to be transferred, and may be required to submit such documentation to the State Board of Education through the State Department of Education's student information system. In submitting an application for an emergency transfer to the State Board of Education, the superintendent or designee verifies that he/she has personally reviewed and approved the application and has a good faith belief that the student qualifies for an emergency transfer.
 - (A) If the superintendent has appointed a designee to review and approve emergency transfers, the school district shall notify the State Department of Education of the appointment.
 - (B) Resident district approval of an emergency transfer is only required if the an emergency transfer is being requested on the basis of concurrence of both the resident district and the receiving school district ~~conducted~~ pursuant to 70 O.S. § 8-104(5). Emergency transfer approval requests submitted to the State Board of Education on the basis of 70 O.S. § 8-104(5) shall be reviewed by the resident district within ten (10) business days of submission. Failure of the resident district to take action to approve or deny the emergency transfer request within ten (10) business days shall result in an automatic approval.
 - (4) Emergency transfers shall be approved only in the following circumstances:
 - (A) The destruction or partial destruction of a school building;
 - (B) Inability of the resident district to offer the subject a student desires to pursue, if the student becomes a legal resident of the school district after February 1 of the school year immediately prior to the school year for which the student is seeking to transfer.
 - (C) A catastrophic medical problem of a student, which for purposes of this section shall mean an acute or chronic serious illness, disease, disorder or injury which has a permanently detrimental effect on the body's system or renders the risk unusually hazardous;
 - (D) Total failure of transportation facilities;
 - (E) With the concurrence of both the ~~send-~~ in-resident and receiving school districts;
 - (F) The unavailability of remote or on-site Internet-based instruction by course title in the district of residence for a student identified as a result of the district's intake and screening procedures as in need of drop-out recovery or alternative education services,

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provided such student was enrolled at any time in a public school in this state during the previous three (3) school years; or

(G) The unavailability of a specialized deaf education program for a student who is deaf or hearing impaired. This transfer may be processed and handled as an IEP Service Agreement. Such determination shall be made in coordination with the parents of the requesting student; or

(H) When a student has been the victim of harassment, intimidation and bullying as defined in 70 O.S. § 24-100.3, and the receiving school district has verified that:

(i) The student has been the victim of harassment, intimidation or bullying; and

(ii) The resident school district was notified of the incident or incidents prior to the filing of the application for transfer;

(5) Obtaining an emergency transfer by submitting an application that includes false or inaccurate information, or obtaining an emergency transfer on behalf of a student who remains in the resident school district may result in a reduction of a district's funding allocation based on Average Daily Attendance (ADA) and/or Average Daily Membership (ADM).

(6) If a student to whom ~~an~~ an emergency transfer has been granted fails to report and/or enroll in the receiving school district, the superintendent of the receiving school district shall notify the State Board of Education and the resident school district within ten (10) business days.

(f) Deployed parents. Student transfers under the Deployed Parents School Act of 2012 at 70 O.S. § 8-103.1 shall be processed in accordance with the following provisions:

(1) The parents of the student may make an application for a deployed parent transfer. The application for a deployed parent transfer must be filed with the superintendent of the receiving school district.

(2) The superintendent of the receiving school district or his/her designee responsible for approving transfers may approve deployed parent transfer only upon an adequate showing of the following:

(A) The parent meets the definition of a deployed parent set forth in (c) of this Section;

(B) The parent has a current, valid identification card issued by the United States Department of Defense; and

(C) The student will be residing with a relative of the student who lives in the receiving school district or who will be living in the receiving school district within six (6) months of the date that the application for transfer is filed.

(3) Transfers pursuant to the provisions of this subsection shall not be subject to the open transfer deadlines set forth in (d) of this Section.

(g) Cancellation of transfers. Transfers may only be cancelled in accordance with the following provisions:

(1) Open transfers may not be cancelled unless the receiving school district has notified the resident school district and parents of the students of its intent to cancel the transfer by July 15 prior to the school year for which the school district seeks to cancel the transfer.

(72) Emergency transfers may only be cancelled with the concurrence of the board of the receiving school district and the parents of the student. A school district must notify the parent in writing of the date and time for which the transfer will be considered for cancellation by the school board and the written notice must be received by the parent no less than five (5) business days prior to the date of the meeting at which the proposed cancellation will be considered.

(h) Reporting transfers. On or before September 1 of each school year, the Superintendent of each receiving school district shall file a statement with the State Board of Education and each resident school district showing the name and grade level of each student granted a transfer to the receiving school district.

[OAR Docket #14-854; filed 9-5-14]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #14-853]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-105. Non-traditional certification in special education [NEW]

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 6-122.7, 6-122.8, 6-122.9

ADOPTION:

July 23, 2014

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

August 25, 2014

EXPIRATION:

Effective through September 14, 2015, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-105. Non-traditional certification in special education [NEW]

Gubernatorial approval:

July 24, 2013

Register publication:

30 Ok Reg 2168

Docket number:

13-1144

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

Pursuant to 75 O.S. § 253(c), the proposed rule is necessary as an emergency measure to implement provisions of HB 2683 (2014) that went into effect on July 1, 2014.

ANALYSIS:

The proposed new rule implements a procedure for certification of special education teachers through a non-traditional process in accordance with the 2014 amendments to 70 O.S. §§ 6-122.7, 6-122.8, and the new statute at 70 O.S. § 6-122.9.

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, (405) 521-4890

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(F):

**SUBCHAPTER 9. PROFESSIONAL STANDARDS:
TEACHER EDUCATION AND CERTIFICATION**

PART 9. TEACHER CERTIFICATION

210:20-9-105. Non-traditional certification in special education

(a) Provisional certificates in special education for qualified applicants. Notwithstanding any other rule in this Part, upon payment of the required processing fee for a provisional certificate set forth in 210:20-9-9, the Oklahoma State Department of Education shall issue a one year provisional special education certificate in the area of mild-moderate or severe-profound disabilities to any qualified applicant. An applicant will be considered "qualified" if the applicant has met the following criteria:

- (1) Applicant has earned a bachelor's level college degree from an accredited institution of higher education;
- (2) Applicant provides a written recommendation for a certificate by a school district board of education or an accredited institution of higher education;
- (3) Applicant has satisfactorily completed a one-hundred fifty (150) clock hour special education program which has been approved annually by the State Department of Education Office of Special Education in accordance with the criteria approved by the State Board of Education; and
- (4) A national criminal history record check of the applicant has been conducted in accordance with the requirements of 70 O.S. § 5-142, the cost of which shall be paid by the Applicant.

(b) Renewal of a provisional certificate in special education. The one year provisional special education certificate issued in accordance with the provisions of (a) of this Section may be renewed for up to two (2) additional periods of one year each upon submission of proof from an accredited institution of higher education that the individual has successfully completed at least six (6) credit hours of prescribed coursework during the previous year in either:

(1) A nontraditional route to certification program in mild-moderate or severe-profound disabilities or;

(2) A master's degree program in special education.

(c) Standard certificates in special education for provisional certificate holders. Notwithstanding any other rule in this Part, upon payment of the required processing fee for a standard certificate set forth in 210:20-9-9, the Oklahoma State Department of Education shall issue a standard special education certificate in the area of mild-moderate or severe-profound disabilities to any individual who has met all of the following requirements:

(1) The applicant has been issued one or more provisional special education certificates in accordance with (a) and (b) of this Section;

(2) Within three (3) years of the date of issuance of the applicant's initial provisional special education certificate, the applicant has successfully completed the prescribed coursework of a nontraditional route to certification program in either mild-moderate or severe-profound disabilities from an accredited institution of higher education;

(3) The applicant has successfully completed the general education examination (OGET) and the professional teaching examination (OPTE); and

(4) The applicant has successfully completed the subject area competency examination (OSAT) in special education for mild-moderate or severe-profound disabilities as required by 70 O.S. § 6-187.

(d) Standard certificates in special education for individuals with a master's degree in special education. Notwithstanding any other Section in this Part and without requiring applicant to first obtain a provisional special education certificate, upon payment of the required processing fee for a standard certificate set forth in 210:20-9-9, the Oklahoma State Department of Education shall issue a standard special education certificate in the area of mild-moderate or severe-profound disabilities to any individual who has met all of the following requirements:

(1) Applicant has earned a bachelor's level college degree from an accredited institution of higher education;

(2) Applicant has successfully completed the prescribed coursework of a master's degree program in special education from an accredited institution of higher education;

(3) Applicant has successfully completed the general education examination (OGET) and the professional teaching examination (OPTE);

(4) Applicant has successfully completed the subject area competency area examination (OSAT) in special education for mild-moderate or severe-profound disabilities as required by 70 O.S. § 6-187; and

(5) A national criminal history record check of the applicant has been conducted in accordance with the requirements of 70 O.S. § 5-142, the cost of which shall be paid by the Applicant.

(e) Certification in special education for individuals certified via an alternative placement certification route. Notwithstanding any other provision in this Section, upon payment the required processing fee for a provisional and/or

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standard certificate set forth in 210:20-9-9, the Oklahoma State Department of Education shall issue a special education certificate in the area of mild-moderate or severe-profound disabilities to any individual who meets all of the following requirements:

- (1) Applicant has earned a bachelor's level college degree from an accredited institution of higher education;
- (2) Applicant holds an alternative placement teaching certificate issued in accordance with the provisions of 70 O.S. § 6-122.3 and accompanying regulations at 210:20-9-110 in one or more of the following areas:
 - (A) Early childhood education;
 - (B) Elementary education; or
 - (C) A "core academic subject" as defined by 20 U.S.C. § 7801(11) and the accompanying regulation at 34 C.F.R. § 200.55(c); and
- (3) Applicant has successfully completed the subject area competency examination (OSAT) in Special Education for mild-moderate or severe-profound disabilities as required by 70 O.S. § 6-187.
- (4) The provisional or standard alternative placement teaching certificate cannot have been obtained through the career development for paraprofessionals program set forth by 70 O.S. § 6-127A and accompanying regulation at 210:20-9-102.
- (5) In the event the applicant has obtained a provisional alternative placement teaching certificate, the special education certificate obtained pursuant to this subsection shall remain provisional until applicant obtains a standard alternative placement teaching certificate, at which point applicant may be eligible to obtain a standard special education certificate upon payment of the required processing fee for issuance of a standard certificate as set forth in 210:20-9-9.
- (f) **Highly qualified status.** A teacher who holds a provisional special education certificate issued or renewed in accordance with (a) or (b) of this Section or a standard special education certificate issued in accordance with (c), (d), or (e) of this Section, must meet the requirements for "highly qualified" special education teachers set forth at 34 C.F.R. § 300.18 if the teacher provides direct special education instruction in a "core academic subject" as defined by 20 U.S.C. § 7801(11) and accompanying regulation at 34 C.F.R. § 200.55(c). A teacher certified to teach special education in accordance with the provisions of this Section may be considered a "highly qualified" special education teacher in the State in accordance with the following provisions:
 - (1) **Core academic areas - middle and secondary education.** A teacher who holds a provisional special education certificate that is issued or renewed in accordance with (a), (b) or (e) of this Section, or a standard special education certificate issued in accordance with (c), (d), or (e) of this Section and who provides direct instruction in a "core academic subject" as defined by 20 U.S.C. § 7801(11), may be considered a special education teacher who is "highly qualified" to teach a core academic subject at a secondary level if the teacher has met all of the following requirements:

(A) The teacher has successfully completed the subject area competency examination (OSAT) in special education for mild-moderate or severe-profound disabilities; and

(B) The teacher has successfully completed the appropriate competency examination (OSAT) in each core academic subject taught, or, if the teacher is not new to the profession (i.e., was a certified teacher prior to December 3, 2004), demonstrated competency in each core academic subject taught through a High, Objective, Uniform State Standard of Evaluation (HOUSSE).

- (2) **Core academic areas - early childhood and elementary education.** A teacher who holds a provisional certificate issued or renewed in accordance with (a), (b) or (e) of this Section, or a standard certificate issued in accordance with (c), (d) or (e) of this Section, who provides direct instruction in a "core academic subject" as defined by 20 U.S.C. § 7801(11), cannot be considered a special education teacher who is "highly qualified" to teach special education courses at an early childhood or elementary education level unless they have met all of the following requirements:

(A) The teacher has successfully completed the subject area competency examination (OSAT) in Special Education for mild-moderate or severe-profound disabilities;

(B) The teacher has successfully completed the appropriate subject area competency examination (OSAT) in early childhood or elementary education in accordance with the requirements set forth in 70 O.S. § 6-187, or, if the teacher is not new to the profession (i.e., was a certified teacher prior to December 3, 2004), demonstrated competency in early childhood or elementary education through a High, Objective, Uniform State Standard of Evaluation (HOUSSE); and

(C) In the case of an alternatively certified teacher who has obtained a special education certificate issued in accordance with 70 O.S. §6-122.9 and (e) of this Section, the teacher has successfully completed the one-hundred fifty (150) clock hour special education program set forth in (a)(3) of this Section.

- (3) **Core academic areas - alternate achievement standards.** Notwithstanding (1) and (2) of this subsection, a teacher who holds a provisional or standard certificate issued or renewed in accordance with (a) or (b) of this Section and who provides direct instruction in a "core academic subject" as defined by 20 U.S.C. § 7801(11) cannot be considered a special education teacher who is "highly qualified" to teach alternate achievement standards as a special education teacher unless the teacher has met the following requirements:

(A) If teaching middle or secondary level core academic subjects exclusively to students assessed against alternative academic achievement standards, the teacher has successfully completed the appropriate competency examination (OSAT) in each core

academic subject taught, or, if the teacher is not new to the profession (i.e., was a certified teacher prior to December 3, 2004), demonstrated competency in each core academic subject taught through a High, Objective, Uniform State Standard of Evaluation (HOUSSE).

(B) If teaching early childhood level or elementary level core academic subjects exclusively to students assessed against alternative standards, the teacher has successfully completed the appropriate competency examination (OSAT) in early childhood or elementary education in accordance with the requirements set forth in 70 O.S. § 6-187, or, if the teacher is not new to the profession (i.e., was a certified teacher prior to December 3, 2004), demonstrated competency in early childhood or elementary education through a High, Objective, Uniform State Standard of Evaluation (HOUSSE).

(g) **Additional certification in early childhood or elementary education.** A teacher who obtains a standard certificate under (c), (d) or (e) of this Section may add a standard certificate in early childhood or elementary education upon successful completion of all of the following requirements:

- (1) An appropriate teacher preparation program approved by the Oklahoma Commission for Teacher Preparation in accordance with the provisions of OAC 712:10-5; and
- (2) The appropriate subject area competency examinations (OSAT) in early childhood or elementary education in accordance with the requirements set forth in 70 O.S. § 6-187.

[OAR Docket #14-853; filed 9-5-14]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF
PRODUCERS, ADJUSTERS, BAIL
BONDSMEN, COMPANIES, PREPAID
FUNERAL BENEFITS, CEMETERY
MERCHANDISE TRUSTS, AND VIATICAL
SETTLEMENT PROVIDERS AND BROKERS**

[OAR Docket #14-852]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. Producers, Brokers, Limited Lines Producers and Vehicle Protection Product Warrantors
365:25-3-1. Insurance producers continuing education [AMENDED]
365:25-3-14. Insurance adjusters continuing education [AMENDED]

AUTHORITY:
Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19, 1435.29, 6217

COMMENT PERIOD:
n/a

PUBLIC HEARING:
n/a

ADOPTION:
August 7, 2014

EFFECTIVE:
Immediately upon Governor's approval

APPROVED BY GOVERNOR:
August 25, 2014

EXPIRATION:
Effective through September 14, 2015, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATION BY REFERENCE:
n/a

FINDING OF EMERGENCY:
The rule amendments are necessary to protect the health and welfare of the people of Oklahoma by ensuring that Oklahoma insurance consumers have access to appropriate information, through insurance producers and adjusters, regarding earthquake insurance. This is necessary due to the increased seismic activity in the state.

ANALYSIS:
365:25-3-1 and 365:25-3-14 are amended to require insurance producers and adjusters to undergo at least 1 hour of continuing education regarding earthquake insurance every two years.

CONTACT PERSON:
Buddy Combs, Oklahoma Insurance Department, (405) 522-4609

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

**SUBCHAPTER 3. PRODUCERS, BROKERS,
LIMITED LINES PRODUCERS AND VEHICLE
PROTECTION PRODUCT WARRANTORS**

365:25-3-1. Insurance producers continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education, which an insurance producer must meet and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

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

- (1) "CE" means continuing education.
- (2) "Certificate of course completion" means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.
- (3) "Continuing Education Advisory Committee" means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.
- (4) "Credit hour" means at least fifty (50) minutes classroom instruction unless a correspondence or self-study course.
- (5) "Instructor" means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

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- (6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.
- (7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance producer.
- (8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance producers.
- (9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by a producer or producers.
- (c) **Exceptions.** The requirements for continuing education in this section shall not apply to:
- (1) limited lines producers.
 - (2) a non-resident producer who resides and is licensed in a state or district having continuing education requirements and the producer meets all the requirements of that state or district to practice therein.
 - (3) a non-resident producer of a state that does not require continuing education hours may fulfill the requirements of any other state's continuing education requirements and shall be deemed to have complied with this rule upon proof of completion of said hours.
- (d) **Continuing education requirements.**
- (1) **CE during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in 36 O.S. § 1435.29 during each twenty-four month period. The twenty-four month period begins the first day after the license is granted. Ethics shall include, but not be limited to, the study of fiduciary responsibility, commingling of funds, payment and acceptance of commissions, unfair claims practices, policy replacement consideration, and conflicts of interest.
 - (2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each producer shall submit upon each licensing renewal certificate(s) of course completion as approved by the Insurance Department, which verify courses completed during the previous twenty-four month period.
 - (3) **Credits carried over.** Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward as general hours to the next twenty-four month period. Excess hours may be applied to bring a lapsed license into compliance.
 - (4) **Legislative updates.**
 - (A) At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:
 - (i) state legislative updates
 - (ii) federal legislative updates.
 - (5) **Earthquake insurance education. Effective January 1, 2015, each resident insurance producer with a property line of authority shall complete one (1) hour of continuing education credit in the topic of earthquake insurance as part of the continuing education credit hours required each twenty-four month period.**
- (e) **Approval of continuing education providers.**
- (1) **Information required, fee.** Each provider shall apply for approval from the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies shall submit a provider fee of Two Hundred Dollars (\$200.00), and all providers, including public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations and Oklahoma agencies shall provide:
 - (A) Name, address, and email address of the provider;
 - (B) Contact person and his or her address and telephone number;
 - (2) **Renewal fee.** An annual renewal fee of Two Hundred Dollars (\$200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.
 - (3) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.
 - (4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.
- (f) **Courses; approval; records; fee.**
- (1) **Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply for and submit the appropriate course review fee to the Commissioner for course approval. The

Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. The provider shall submit the following at the time of application:

- (A) The number of CE hours requested for each course;
 - (B) Topic outlines which list the summarized topics covered in each course and a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes;
 - (C) If a prior approved course has materially changed, a summarization of those changes.
- (2) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted. An instructor shall have one of the following qualifications:
- (A) Three (3) years of recent experience in the subject area being taught; or
 - (B) A degree related to the subject area being taught; or
 - (C) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.
- (3) **Written approval required.** All courses shall require written approval by the Commissioner.
- (4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course approval. This withdrawal will not affect any CE hours attained under the course previous to the withdrawal. If a provider provides a CE course after that course has been denied by the Commissioner, the provider may be subject to an administrative action and penalty.
- (5) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.
- (6) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.
- (7) **Content of courses.** Courses must be of a meaningful nature and shall not include insurance company specific courses in areas such as prospecting, motivation, sales techniques, psychology, recruiting, and subjects not relating to the insurance license. However, agency management courses designed to assist producers in becoming more efficient, profitable, and assuring their perpetuation, will be deemed to be in the best interest of the insuring public and thereby subject to approval. Each such agency management course must include the description, the effects the course is designed to accomplish toward the purposes of efficiency, profitability, and/or perpetuation

and each course will be reviewed for approval on its own merits.

(8) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance producer a "Certificate of Course Completion" Form.

(9) **List of producers completing course to Commissioner; producer license numbers.** Within ten (10) business days after completion of each course, the provider shall electronically upload a list of all insurance producers who completed the course to the Commissioner's database system. This list shall contain the course number, date of completion and license numbers of all insurance producers completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(10) **Course records maintained four years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(11) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date and instructor's name.

(12) **Course evaluation.** The continuing education provider shall provide written notification to each producer of the opportunity to offer comments on any continuing education class via the Insurance Department website.

(13) **Course review fee.** A non-refundable course review fee of thirty dollars (\$30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

(g) **Approved Professional Designation Programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty-four (24) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved Professional Designation Program.** As used in 36 O.S. § 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

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- (A) The program shall have a sponsoring organization;
 - (B) The program's sponsoring organization shall maintain and govern a code of conduct;
 - (C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;
 - (D) Each course of the professional designation course curriculum shall be a minimum of twenty-four (24) hours of classroom instruction or equivalent classroom instruction; and
 - (E) The program shall include an examination requirement that students shall pass before earning the designation.
- (3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:
- (A) The sponsoring organization's code of conduct;
 - (B) The sponsoring organization's membership requirements;
 - (C) The professional designation program's course requirements; and
 - (D) The professional designation program's examination requirements.
- (4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.
- (h) **Presumptive Continuing Education Credit Approval.**
- (1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:
- (A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;
 - (B) The association shall maintain and govern a code of member conduct;
 - (C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and
 - (D) The association shall perpetuate its continuity through the election of officers.
- (2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:
- (A) The association's mission statement;
 - (B) The association's code of member conduct;
 - (C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;
 - (D) The mailing address and primary contact for the association; and
 - (E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.
- (3) **Notification of approval or disapproval.**
- (A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.
- (B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.
- (C) If the Commissioner receives a report or reports that the content of a continuing education course may violate 365:25-3-1(f)(7) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with 365:25-3-1(f)(7) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.
- (D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.
- (4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.
- (5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.
- (6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph (3)(B) of this section during the fourth quarter of the last approval year.
- (7) **Agency Management Courses.** Agency management courses shall not be considered for presumptive continuing education approval.
- (i) **Self study and Distance Learning Courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall

be reviewed, updated as appropriate, and published annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the producer and revocation of the course approval and or provider status for the provider.

(j) **Repeating courses.** An insurance producer may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the producer may not during the twenty-four month period earn more than the maximum credits designated for the course. A producer may repeat a course after two years have elapsed and receive the maximum credits designated for the course.

(k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twenty-four-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

(l) **Course approval.** There shall hereby be established by 36 O.S. § 1435.29(B)(1)(b) the Continuing Education Advisory Committee. This committee shall consist of representatives from the Licensing Division, and representatives from the industry as designated by the Commissioner. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith. Prior to the Commissioner's approval or disapproval of a course in 365:25-3-1(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-1(f) regarding the course or additional information regarding the course, if necessary, the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-14. Insurance adjusters continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education which an insurance adjuster must meet, and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

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

- (1) **"CE"** means continuing education.
- (2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.
- (3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.
- (4) **"Credit hour"** means at least fifty (50) minutes of classroom instruction, unless a correspondence or self-study course.
- (5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.
- (6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.
- (7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance adjuster.
- (8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance adjusters.
- (9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by an adjuster or adjusters.

(c) **Exceptions.** Continuing education requirements shall not apply to non-resident adjusters licensed in a designated home state that has a continuing education requirement for adjusters.

(d) **Continuing education requirements.**

- (1) **CE during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in Section 6217(B) of Title 36 of the laws of this state during each twenty-four month period. The twenty-four month period begins the first day after the license is granted.
- (2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each adjuster shall submit upon each licensing renewal a certificate(s) of course completion as approved by the Insurance Department, which verifies courses completed during the previous twenty-four month period.

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- (3) **Credits carried over.** Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward to the next twenty-four month period as general hours. Excess hours may be applied to bring a lapsed license into compliance.
- (4) **Legislative Updates.** At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:
- (A) State legislative updates, or
 - (B) Federal legislative updates.
- (5) **Earthquake insurance education.** Effective January 1, 2015, all resident insurance adjuster licensees, or nonresident insurance adjusters who have designated Oklahoma as their home state, with a property line of authority shall complete one (1) hour of continuing education credit in the topic of earthquake insurance as part of the continuing education credit hours required each twenty-four month period.
- (56) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.
- (67) **Prerequisite for renewal or reinstatement.** As a prerequisite for license renewal or prior to reinstatement following a lapse of license, an adjuster must demonstrate that the educational requirements have been reported for the previous renewal cycle.
- (e) **Approval of continuing education providers.**
- (1) **Information required.** Each provider shall apply for approval by the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies shall submit a provider fee of Two Hundred Dollars (\$200.00), and all providers, including public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations and Oklahoma agencies shall provide:
 - (A) Name, address, and email address of the provider.
 - (B) Contact person and his or her address and telephone number(s).
 - (2) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.
 - (3) **Renewal fee.** An annual renewal fee of Two Hundred Dollars (\$200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.
 - (4) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.
- (f) **Courses; approval; records.**
- (1) **Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply for and submit the appropriate course review fee to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. The provider shall submit the following at the time of application:
 - (A) The number of CE hours requested for each course.
 - (B) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.
 - (C) If a prior approved course has materially changed, a summarization of those changes.
 - (2) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted. An instructor shall have one of the following qualifications:
 - (A) Three (3) years of recent experience in the subject area being taught; or
 - (B) A degree related to the subject area being taught; or
 - (C) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.
 - (3) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date, location and instructor's name.
 - (4) **Written approval required.** All courses shall require written approval by the Commissioner.
 - (5) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course. This withdrawal will not affect any CE hours attained under the course previous to the withdrawal.
 - (6) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(7) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(8) **Content of courses.** Courses must be of a meaningful nature and shall not include insurance company specific courses in areas such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, basic pre-licensing principles of adjusting, and subjects not relating to the adjuster's license.

(9) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance adjuster a "Certificate of Course Completion" Form.

(10) **List of adjusters completing course to Commissioner.** Within ten (10) business days after completion of each course, the provider electronically upload a list of all insurance adjusters who completed the course to the Commissioner's database system. This list shall contain the course number, date of completion and license numbers of all insurance adjusters completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(11) **Course records maintained four (4) years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(12) **Course review fee.** A non-refundable course review fee of thirty dollars (\$30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

(13) **Course evaluation.** The continuing education provider shall provide written notification to each producer of the opportunity to offer comments on any continuing education class via the Insurance Department website.

(g) **Approved professional designation programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 6217(C), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved professional designation program.** As used in 36 O.S. § 6217(C), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive continuing education credit approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

(C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and

(D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

(A) The association's mission statement;

(B) The association's code of member conduct;

(C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;

(D) The mailing address and primary contact for the association; and

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- (E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.
- (3) **Notification of approval or disapproval.**
- (A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.
- (B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.
- (C) If the Commissioner receives a report or reports that the content of a continuing education course may violate paragraph 365:25-3-1(f)(8) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with paragraph 365:25-3-1(f)(8) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.
- (D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.
- (4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.
- (5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.
- (6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph 365:25-3-14(H)(3)(B) of this section during the fourth quarter of the last approval year.
- (7) **Agency management courses.** Agency management courses shall not be considered for presumptive continuing education approval.
- (i) **Self study and distance learning courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings.
- The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed and updated as appropriate and published on the Commissioner's website annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the adjuster and revocation of the course approval and or provider status for the Provider.
- (j) **Repeating courses.** An insurance adjuster may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the adjuster may not during the twenty-four month period earn more than the maximum credits designated for the course. An adjuster may repeat a course after two (2) years have elapsed and receive the maximum credits designated for the course.
- (k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twelve-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.
- (l) **Continuing education advisory committee.**
- (1) There shall hereby be established the Continuing Education Advisory Committee. This committee shall consist of representatives from the Licensing Division, and representatives from the industry as designated by the Commissioner. Members of the Advisory Board established by 36 O.S. § 6221 may also serve on the Continuing Education Advisory Committee. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith.
- (2) Prior to the Commissioner's approval or disapproval of a course in 365:25-3-14(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-14-(f) regarding the course or additional information regarding the course, if necessary, the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider

wants to continue to offer the course for continuing education credit.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[OAR Docket #14-852; filed 9-2-14]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES**

[OAR Docket #14-851]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. Procedures for obtaining and maintaining a driver license or identification card

Part 7. Identification cards

595:10-1-25. Procedure for obtaining an identification card [AMENDED]

595:10-1-26. Procedure for obtaining a renewal identification card [AMENDED]

595:10-1-27. Procedure for obtaining a replacement identification card [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 6-106

ADOPTION:

August 1, 2014

EFFECTIVE:

November 1, 2014

APPROVED BY GOVERNOR:

August 25, 2014

EXPIRATION:

Effective through September 14, 2015, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

Not applicable

INCORPORATION BY REFERENCE:

Not applicable

FINDING OF EMERGENCY:

This rule is of compelling public interest to protect public health, safety, and welfare of Oklahoma motorists and is necessary to comply with the provisions of House Bill 2387 passed by the second session of the 54th Legislature and signed into law on May 9, 2014. This bill becomes effective November 1, 2014.

ANALYSIS:

This rule change is to allow the Department of Public Safety to accept an unexpired Oklahoma Driver License from the person applying for an Oklahoma Identification Card as both primary and secondary proofs of identification.

CONTACT PERSON:

Kimberly D. Dammen, DPS Legislative Services manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2140. E-mail: kdammen@dps.state.ok.us

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. § 253(F):

SUBCHAPTER 1. PROCEDURES FOR OBTAINING AND MAINTAINING A DRIVER LICENSE OR IDENTIFICATION CARD

PART 7. IDENTIFICATION CARDS

595:10-1-25. Procedure for obtaining an identification card

(a) A person wishing to obtain an identification card shall appear before a Driver License Examiner or, if the applicant has been issued a computerized format (digital) driver license for at least thirty (30) days, may appear before a motor license agent. The applicant shall be required to furnish the same acceptable means of identification as when applying for a driver license as prescribed in OAC 595:10-1-3(b) unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of obtaining an Oklahoma identification card [47 O.S. § 6-106(G)]. ~~[see OAC 595:10-1-3(b) regarding identification documents required]~~ and complete the application form unless the applicant has been previously issued an original Oklahoma driver license on or after November 1, 2007.

(b) If appearing before a Driver License Examiner, the Examiner will complete and, if appropriate, will approve the identification card application. A DL-10 form will be processed for the applicant. The applicant shall take the DL-10 form, along with the identification presented to the Driver License Examiner at application time, to a motor license agent or the Department and pay the required fee. If applicant is under age eighteen (18) and has not been issued a computerized format (digital) driver license for at least thirty (30) days, may submit a notarized affidavit signed by a custodial legal parent or legal guardian in lieu of custodial legal parent or legal guardian appearing in person and signing application [47 O.S. § 6-105.3(A)].

(c) When appearing before a motor license agent, the agent shall process the application for the applicant, collect the required fee from the applicant, and issue the identification card to the applicant.

(d) An identification card may be issued as prescribed in OAC 595:10-1-10(h) and 10-1-18(g).

(e) Identification card numbers will be assigned by computer. Use of the applicant's Social Security number is prohibited [47 O.S. §§ 6-105(H) and 6-106(B)].

(f) An individual, who is an Oklahoma resident and who is located within the state, may declare in writing to the Department that, because of a medical reason or condition, he or she is unable to appear in person to renew his or her identification card, in which case the Department shall issue by mail an identification card to the person. The individual shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) ~~—~~ unless the cardholder provides a valid

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and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

595:10-1-26. Procedure for obtaining a renewal identification card

(a) **General requirements.** During the month of expiration or as provided in (c) of this Section, any identification card holder, who wishes to keep his or her identification card in force, may present proper identification to a motor license agency and pay the required fee to a Motor License Agent or to the Driver License Services Division of the Department of Public Safety. Identification cards issued to individuals who have attained the age of 65 or older are issued for an indefinite period of time and are not subject to this Section. Failure to renew an identification card during the month of expiration shall not relieve the person of the obligation to renew the identification card under the provisions required by law and this Section if the person wishes to keep the identification card in force.

(b) **Required identification.**

(1) **Renewal with expiring or expired identification card.** The expiring identification card provided as the primary identification may be retained by the cardholder, after the motor license agent or the Department has first punched a hole through the identification number of the card. The person shall provide secondary identification as prescribed in OAC 595:10-1-3(b)(2); unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

(2) **Renewal without identification card.** Any person who does not have the expiring or expired identification card shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b); unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

(c) **Early renewal of an identification card.** Any identification card holder may renew his or her identification card not more than one (1) year prior to the expiration date. A renewal which occurs more than one (1) year prior to the expiration date shall be treated as a replacement under the provisions of OAC 595:10-1-27.

(d) **Change of identification card number.** Use of the cardholder's Social Security number as the identification card number is prohibited.

(e) **Persons who may appear before a motor license agent.** An individual who has previously held an Oklahoma identification card may apply directly to a motor license agent for renewal of the previous Oklahoma identification card, upon establishing Oklahoma residence and following the applicable procedure for renewal.

595:10-1-27. Procedure for obtaining a replacement identification card

(a) **General requirements.** Any person requiring a replacement identification card because the card was lost, stolen, or mutilated or because information on the card needs to be changed may request a motor license agent or the Department to issue a replacement, upon presentation of proper identification and payment of the required fee.

(b) **Required identification to replace lost, stolen, or mutilated identification card.** Any person shall provide both primary or secondary identification as prescribed in OAC 595:10-1-3(b); unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

(c) **Required identification to change information and replace an identification card.**

(1) **Name change.** Any person who requests a replacement identification card in order to make a name change must comply with the primary and secondary identification requirements prescribed in OAC 595L10-1-3(b) or produce a valid and unexpired Oklahoma driver license [47 O.S. § 6-106(G)] in order to identify the person by his or her former name and with OAC 595:10-1-35 in order to identify the person by his or her new name. The former name shall be entered into the "Alias" field in the identification card database to provide historical information to the Department. The person requesting the name change may retain the old card, if it is available, after the motor license agent or the Department has first punched a hole through the identification number of the card.

(2) **Address change.** Any person who requests a replacement identification card in order to make an address change shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b); unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

The person requesting the address change may retain the old card, if it is available, after the motor license agent or the Department has first punched a hole through the identification number of the card. An address change shall be made only to an Oklahoma address.

(3) **Sex change.** The cardholder shall show an original or certified court order for name change, if applicable, and a notarized statement on letterhead from the physician who performed the sex change operation indicating the applicant or licensee has undergone a complete physical sex change. The letter shall state the sex change is "irreversible and permanent". The cardholder shall also show proof of former legal name. The former name shall be entered into the "Alias" field in the identification card database to provide historical information to the Department. The person requesting the information change may retain the old card, if it is available, after the motor license

agent or the Department has first punched a hole through the identification number of the card.

(d) **Change of identification card number.** Use of the cardholder's Social Security number as the identification card number is prohibited.

(e) **Person who may appear before a motor license agent.** An individual who has previously held an Oklahoma identification card may apply directly to a motor license agent for replacement of the previous Oklahoma identification card, upon establishing Oklahoma residence and following the applicable procedure for replacement.

[OAR Docket #14-851; filed 8-28-14]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 11. COMMERCIAL DRIVER LICENSES**

[OAR Docket #14-850]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:

- Subchapter 1. Commercial Driver Licensing
- Part 2. Application for Initial Commercial Driver License
- 595:11-1-12. Procedures for obtaining an initial commercial driver license [AMENDED]
- Part 7. Changes to Information Contained on Commercial Driver License
- 595:11-1-51. Procedure to make a change of name on a commercial driver license [AMENDED]
- Subchapter 3. Examination
- 595:11-3-6. Written examination [AMENDED]
- 595:11-3-7. Pre-trip inspection examination of commercial motor vehicles [AMENDED]
- Subchapter 5. Commercial Driver License Third-Party Examiners
- 595:11-5-7. Skills examination requirements and standards [AMENDED]
- 595:11-5-9. Failed examinations and reexamination [AMENDED]
- 595:11-5-15. Prohibited acts; conduct [AMENDED]
- Subchapter 7. Truck Driver Training
- 595:11-7-3. School licenses and instructor permits [AMENDED]
- 595:11-7-4. Qualifications for instructors [AMENDED]
- 595:11-7-13. Requirements for schools and classrooms [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 6-101 et seq.

ADOPTION:

August 1, 2014

EFFECTIVE:

Immediately upon the Governor's approval

APPROVED BY GOVERNOR:

August 25, 2014

EXPIRATION:

Effective through September 14, 2015 unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

Not applicable

INCORPORATION BY REFERENCE:

Not applicable

FINDING OF EMERGENCY:

These rules are of compelling public interest to protect public health, safety, and welfare of Oklahoma motorists and are necessary to comply with the provisions of Oklahoma Statutes as well as Code of Federal Regulations.

ANALYSIS:

These proposed amendments are to ensure the Department of Public Safety meets Federal Regulations regarding the application process, examination, and issuance of Oklahoma Commercial Driver Licenses. Failure to implement these rules could deem the Oklahoma CDL program in noncompliance and

therefore the State could no longer issue any type of Commercial Driver License that would be recognized by other states.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULE IS CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S. § 253(F):

SUBCHAPTER 1. COMMERCIAL DRIVER LICENSING

PART 2. APPLICATION FOR INITIAL COMMERCIAL DRIVER LICENSE

595:11-1-12. Procedures for obtaining an initial commercial driver license

(a) **Application.** An applicant for an initial Oklahoma commercial driver license shall first appear before a driver license examiner [47 O.S. § 6-110]. An application for a commercial driver license shall be completed by the applicant at the driver license examination station and approved by a driver examiner prior to the commencement of the required examination. Upon submitting a completed and approved application, providing proof of identity [~~see OAC 595:10-1-3(b) regarding required identification documents~~] and proof that the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S., § 1550.42(B)], meeting all statutory requirements, and successfully completing every required examination [see Subchapter 3 of this Chapter relating to examinations], the applicant may then proceed to a motor license agent or the Department of Public Safety, 3600 N. M.L. King, Oklahoma City, and present to the agent or the Department a DL-10 form issued by the driver license examiner, along with the same primary and secondary identification presented to the examiner, to the agent or the Department, pay the required fees, and be issued a driver license. Upon approval of the application by the Department, the applicant shall surrender to the Department any driver license, whether issued by Oklahoma or by another jurisdiction, currently issued to the applicant.

(b) **Required identification.** ~~Every applicant shall furnish to the driver examiner both primary documentary proof of identity [47 O.S., § 6-106(A)(3)], to include whether the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S., § 1550.42(B)], and secondary documentary proof of identity [47 O.S., § 6-106(A)(3)] and proof of full legal name and birth date beyond any reasonable doubt when applying for an initial Oklahoma driver license [47 O.S. § 6-101(L)]. Complete requirements for identification and the documents which are acceptable for primary and secondary proofs of identity are~~

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~~found in OAC 595:10-1-3(b).~~ At the time of application for an initial Oklahoma driver license, every applicant shall provide to the driver examiner:

(1) primary proof of identification [47 O.S. § 6-106(A)(3); OAC 595:10-1-3(b)].

(2) secondary proof of identification [47 O.S. § 6-106(A)(3); OAC 595:10-1-3(b)].

(3) documentation showing whether the applicant is a United States citizen, foreign national or legal permanent resident alien [21 O.S. § 1550.42]. Proof of citizenship or lawful permanent residency shall be met only when the applicant provides [49 C.F.R. § 383.71]:

(A) a United States citizen:

(i) Valid, unexpired U.S. Passport;

(ii) Certified copy of a birth certification filed with a State Office of Vital Statistics or equivalent agency in the individual's State of birth, Puerto Rico, the U.S. Virgin Islands, , American Samoa, or the Commonwealth of the Northern Mariana Islands;

(iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State;

(iv) Certificate of Naturalization issued by the U.S. Department of Homeland security (DHS); or

(v) Certificate of Citizenship issued by DHS.

(B) a lawful permanent resident: valid, unexpired Permanent Resident Card , issued by USCIS or INS.

(4) proof of full legal name,

(5) date of birth,

(6) and proof of Oklahoma residency: utility bill or Government form bearing the name and address of the applicant. Proof of current residence must be shown for initial issuance, transfer, renewal, or upgrade, made after July 8, 2011. [47 O.S. § 6-106(B)].

(c) Documentation requirements. Any document furnished must be either a certified or original copy and issued by the proper authority; notarized documents will not be accepted. Any document presented shall be unexpired unless otherwise noted in OAC 595:10-1-3. Any document that has been or appears to have been duplicated, traced over, mutilated, defaced, tampered with, or altered in any manner or that cannot be read by the Driver License Examiner shall not be accepted or used for identification purposes. All identification documents must be approved by the Examiner before acceptance. The Examiner may, at his or her discretion, request additional identification documentation of the applicant.

(ed) **Commercial driver license numbers.**

(1) Commercial driver license numbers shall be assigned by computer. Use of the applicant's Social Security number as the commercial driver license number is prohibited [47 O.S. § 6-106(B)].

(2) Any licensee may request to change the numeric characters of his or her commercial driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement commercial driver license from a motor license agent or the Department, and the licensee shall pay the required fee for the replacement

license [~~see—OAC 595:11-1-31 or OAC 595:11-1-41 regarding replacement commercial driver licenses~~]. The commercial driver license number may be changed no more than two (2) times in any four-year period without prior approval of the Identification Verification Unit of the Department.

PART 7. CHANGES TO INFORMATION CONTAINED ON COMMERCIAL DRIVER LICENSE

595:11-1-51. Procedure to make a change of name on a commercial driver license

(a) **Procedure.** Any licensee may request a change of name on his or her commercial driver license upon providing the appropriate identification, as provided in OAC 595:10-1-3(b), and paying the required fee to a motor license agent or to the Department of Public Safety.

(b) **Name changes allowed.** Name changes must result from either marriage or court action. A licensee requesting a legitimate name change shall submit, without exception, the original document which indicates the name change.

(c) **Documentation required.** A person requesting a name change shall comply with the primary and secondary identification requirements in OAC 595:10-1-3(b) in order to identify the person by his or her former name and OAC 595:10-1-18(c)(1) in order to identify the person by his or her new name and proof of current residence address [OAC 595:11-1-12(b) and 49 C.F.R. § 383.71]. The required documents for a name change shall include:

(1) Court-ordered name change, which shall be in addition to the primary and secondary forms of identification required by OAC 595:10-1-3(b). Only the following types of court orders may be considered when a name change is requested:

(A) divorce decree,

(B) adoption decree,

(C) name change decree, or

(D) establishment of record of birth, pursuant to 63 O.S., § 1-315;

(2) Marriage certificate, which may serve only as the secondary form of identification required by OAC 595:10-1-3(b). The name change shall be to the name signed by the person on the marriage certificate; or

(3) For a common law marriage, "Affidavit of Common Law Marriage" containing the notarized signatures of the husband and wife. ~~Both primary and secondary forms of identification as prescribed in OAC 595:10-1-3(b) must be submitted in addition to this affidavit.~~

(d) **Form of new name.**

~~(1) A name change resulting from marriage shall appear on the commercial driver license in one of the following forms. Provided, no initial shall be used unless it is a legal part of the name of the person; provided further, if any abbreviation is required due to the length of the name, only the Department shall have authority to determine the abbreviation used.~~

- (A) ~~{Surname of spouse}, {first name} {middle name or initial},~~
- (B) ~~{Surname of spouse}, {first name} {former surname or initial},~~
- (C) ~~{Surname surname of spouse}, {first name} {middle name or initial}, or~~
- (D) ~~{Surname of spouse surname}, {first name} {middle name or initial}.~~

(2) A name change resulting from a marriage, court order or divorce decree must appear on the driver license or identification card exactly as stated on the marriage certificate, court order or decree.

- (e) **Titles or ecclesiastical names.** Titles or ecclesiastical names shall not be placed on a commercial driver license.
- (f) **Retention of information.** The former name shall be entered by the driver examiner into the "Alias" field in the driver license database to provide historical information to the Department.

SUBCHAPTER 3. EXAMINATION

595:11-3-6. Written examination

(a) **General.** A written examination shall be administered by a driver examiner to each applicant for a commercial driver license to determine the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state; provided, the written examination may be waived as provided in OAC 595:11-1-13(a). The written examination, if not waived, and the vision screening shall be successfully passed by the applicant before the skills test is administered. The written examination includes, when applicable, any separate endorsement/restriction examinations as described in this Section. An applicant determined by an examiner to be cheating on any portion of an examination shall:

- (1) immediately forfeit the examination,
- (2) be given a failing score by the examiner, and
- (3) be disqualified from retaking the examination for one week.

(b) **Examination content.**

(1) **Written examination.** The written examination administered for a commercial driver license shall consist of a minimum of fifty (50) multiple-choice questions. In addition, the combination vehicle test administered for a Class A commercial driver license shall consist of a minimum of twenty (20) multiple-choice questions. The minimum passing score for each written examination shall be eighty percent (80%).

(2) **Endorsement or restriction examination.** The minimum number of multiple-choice questions and the minimum passing score for each endorsement or restriction examination shall be as follows:

- (A) "P" passenger endorsement - 20 questions - 80% score
- (B) "H" hazardous materials endorsement - 30 questions - 80% score
- (C) "N" tank vehicle endorsement - 20 questions - 80% score

- (D) "M" motorcycle endorsement - 20 questions - 75% score
- (E) "S" school bus endorsement - 20 questions - 80% score
- (F) "T" double or triple trailers endorsement - 20 questions - 80% score
- (G) Air brakes - 25 questions - 80% score. Failure to pass at least 80% of the 25 questions regarding air brakes will result in a restriction code "L" (Vehicle Without Air Brakes) being placed on the applicant's license upon issuance. The applicant shall be prohibited from taking the skills examination in a vehicle with air brakes.

(c) **Alternate method of examination.** The Department may provide an alternate method for the written examination for an applicant who cannot read or has a language barrier.

(d) **Retesting.** An applicant failing the written examination may be granted the opportunity to retest on the next regular business day.

(e) **Discretionary examination.** Any examination, as deemed necessary by the Department, may be administered by the Department as required for the establishment and authorization of a special endorsement or to permit the operation of commercial motor vehicles.

(f) **Commercial learner permit.** Any person eighteen (18) years of age or older may apply for a ~~restricted~~ Class A, B, or C commercial ~~driver license~~ learner permit, as provided in 47 O.S. § 6-101(F), solely for the purpose of behind-the-wheel training in a commercial motor vehicle while accompanied by a licensed driver who is twenty-one (21) years of age or older and who holds a valid commercial driver license, including any and all required endorsements, for the class and type of commercial motor vehicle being driven.

(1) The ~~restricted~~ commercial ~~driver license~~ learner permit shall be issued as provided for 47 O.S.,—§ 6-101(F)(2). Any person may reapply for another restricted commercial driver license by complying with all requirements for the class of restricted commercial driver license desired.

(2) The Department shall not place a hazardous materials (H) endorsement on a restricted commercial driver license.

(3) A "No Passengers" restriction (restriction code "~~WP~~") shall be placed on any commercial learner permit issued with a "P" or "S" endorsement. The permit holder shall not operate a commercial motor vehicle which carries any passengers [49 C.F.R. § 383.25].

(4) An "Empty/Purge Tank" restriction (restriction code "~~WX~~") shall be placed on any commercial learner permit issued with an "N" endorsement. The tank vehicle shall be empty and shall be purged if the tank vehicle contained hazardous materials, and the permit holder shall not operate a commercial motor vehicle with a tank vehicle which is not empty or which has not been purged if the tank vehicle contained hazardous materials. A current and valid purge certificate shall be carried in the vehicle at all times when operated by a driver with a permit [49 C.F.R. § 383.25].

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595:11-3-7. Pre-trip inspection examination of commercial motor vehicles

(a) **Condition of vehicle.** It is the responsibility of the applicant to furnish for the skills examination a commercial motor vehicle in good working order which meets all state laws and federal requirements regarding operability and equipment.

(b) **In general.** An applicant for a commercial driver license shall pass a vehicle pre-trip inspection examination at the designated inspection location. The pre-trip inspection test:

(1) shall be performed in a vehicle representative of the vehicle class for the type of commercial driver license for which the applicant is applying,

(2) shall not be performed using a vehicle transporting hazardous materials or a vehicle which is required to be placarded for hazardous materials under the rules of the Department of Public Safety or federal law or regulation,

(3) shall not be performed using a vehicle which requires an oversize permit under state law or Department of Public Safety rules,

(4) shall not be performed using a vehicle that was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver, and

(5) shall not be performed with the aid or assistance of notes or prompting. An applicant determined by an examiner to be cheating on any portion of an examination shall:

(A) immediately forfeit the examination,

(B) be given a failing score by the examiner, and

(C) be disqualified from retaking the examination for one week.

(6) shall not be filmed or recorded, unless by the Department of Public Safety.

(c) **Physical pre-trip inspection examination.** The physical pre-trip inspection examination administered for a commercial driver license shall consist of the content and methods provided in the most recent release of the 2005 American Association of Motor Vehicle Administrators CDL test model. The content is available to the public as provided for in OAC 595:11-3-2.

(d) **Scoring procedure.** The scoring procedure for the vehicle pre-trip inspection examination shall be based on the applicant's ability to identify and fully explain what is being inspected for each item ~~the function or purpose of each item~~ required to be inspected. Applicants must successfully identify and explain at least 70% of the inspection items, which will be based upon the type and axle configuration of the vehicle. The Pre-trip shall be timed, giving the applicant forty (40) minutes to complete. The Pre-trip will be considered a fail if not completed within the time allowed. For air brake vehicles, the following actions will constitute an automatic failure:

(1) an air brakes leakage test while the engine is running,

(2) failure to turn the ignition key to the "on" or "accessory" position for air brake bleed down test, or

(3) failure to release the parking brake for air leakage and bleed down test.

SUBCHAPTER 5. COMMERCIAL DRIVER LICENSE THIRD-PARTY EXAMINERS

595:11-5-7. Skills examination requirements and standards

(a) **Eligibility.** To be eligible for a skills examination, a commercial driver license applicant shall successfully complete, prior to the examination, a formal course of instruction, as submitted to and approved by the Department, by the institution where the examination will be administered.

(b) **Application.** Before an examination may be given to an applicant by a third-party examiner, the applicant must completely fill out and submit to the examiner an Oklahoma commercial driver license application (DPS Form DL-18-CT) [see OAC 595:11-5-13(e)].

(c) **Physical Qualifications.** Prior to any examination, an applicant shall be provided with a copy of the physical qualifications for commercial motor vehicle drivers from the Federal Motor Carrier Safety Regulations [49 C.F.R. § 391.41].

(d) **Standards.** Current minimum standards for the examination of an applicant for a commercial driver license, as set forth in state statutes, Department rules, and federal regulations, shall be provided by the Department to all certified schools and third-party examiners ~~by the Department~~.

(e) **School bus skills examination requirements.** The school bus skills examination for a commercial driver license administered by a third-party examiner shall:

(1) include all specified school bus maneuvers as required by the Department, and

(2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. § 391] for the class or classes of vehicle for which the applicant desires to be licensed.

(f) **Truck skills examination requirements.** The truck skills examination for a commercial driver license administered by a third-party examiner shall:

(1) include all specified maneuvers as required by the Department [~~see OAC 595:11-3-9 relating to skills examination~~] and the Federal Motor Carrier Safety Act [49 C.F.R. § 383].

(2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. § 383].

(g) **Notice of Examination.** ~~At least twenty-four (24) hours prior to any examination to be administered by a third-party examiner, a notice of the examination schedule shall be sent to the CDL Program Administration.~~ A notice of the examination schedule shall be submitted electronically through CSTIMS to the CDL Coordinator or his or her designee no later than three (3) business days prior to the initial examination and twenty-four (24) hours prior to a retest that will be administered by a third-party examiner. A third-party examiner shall not administer the skills test to any applicant he or she has instructed in the classroom and/or in behind the wheel training.

(h) **Location of examination.** All examinations shall be administered on the route approved for the certified school employing the third-party examiner.

(i) **Limitation on number of examinations.** Not more than six (6) examinations per day shall be administered by a third-party examiner without prior written consent of the CDL Program Administration.

(j) **Examination reports.** Reports of examination activity by third-party examiners shall be submitted electronically through CSTIMS immediately upon the completion of each examination to the CDL Program Administration Coordinator or his or her designee not later than the tenth calendar day of the month following the date of examination activity.

595:11-5-9. Failed examinations and reexamination

(a) If the commercial driver license applicant fails an examination administered by a third-party examiner, the third-party examiner may administer the examination to the applicant up to two (2) additional times. The third-party examiner shall wait the required amount of time before reexamining the applicant ~~[see OAC 595:11-3-7 and OAC 595:11-3-9].~~ If the applicant fails the examination three (3) times, the third-party examiner shall refer the applicant to the Department for any further examination.

(b) The third-party examiner shall:

(1) record each failed examination on application form DL-18-CT ~~[see OAC 595:11-5-13(e)]; and~~

(2) within twelve (12) hours, ~~notify the Driver License Examining Division, CDL Help Desk, of the Department at (405) 425-2020 to report each failed examination.~~ of examination, each failed exam must be reported to the Department:

(A) during normal business hours:

(i) by calling the CDL Help Desk at 405.425.2020, or

(ii) by emailing the CDL Coordinator or his or her designee, and (iii) electronically through CSTIMS immediately upon completion of each exam.

(B) after normal business hours:

(i) by emailing the CDL Coordinator or his or her designee, and

(ii) electronically through CSTIMS immediately upon completion of each exam.

(3) not administer a reexamination the same student that has failed any part of the examination until the next business day unless the student has failed the examination three (3) times. The Third-party examiner will refer the student to the Department of Public Safety for the fourth examination.

595:11-5-15. Prohibited acts; conduct

(a) **Certified schools - prohibited acts.** A certified school shall not:

- (1) permit to be used any form of alcoholic beverage or drugs in, on or about the school premises, including the examination route, or in any commercial motor vehicle being used for the purpose of administering a skills examination,
- (2) require or permit the administration of an examination to any commercial driver license applicant with any

physical handicap. The third-party examiner shall direct these individuals to a Department Examiner.

(3) require or permit the administration of an examination to any person who has not enrolled in and successfully completed a course at the school, as submitted to and approved by the Department, ~~at the school.~~ The third party examiner shall not administer the skills test to applicants he or she has instructed in the classroom and/or in behind the wheel training.

(4) require or permit any person other than a third-party examiner employed by the school to administer any examination,

(5) require or permit the administration of an examination in a vehicle required to be placarded for hazardous materials, or

(6) commit or omit any act which constitutes a violation of any of the rules of this Subchapter or the laws of this state or federal regulations governing third-party examiner certification.

(b) **Third-party examiner - prohibited acts.** A third-party examiner shall not:

(1) use or permit to be used any form of alcoholic beverage or drugs in, on or about the school premises, including the examination route, or in any commercial motor vehicle being used for purpose of administering a skills examination,

(2) administer an examination to any commercial driver license applicant with any physical handicap,

(3) administer an examination to any person who has not enrolled in and successfully completed a course at the certified school employing the third-party examiner, as submitted to and approved by the Department, ~~at the certified school employing the third party examiner,~~

(4) administer an examination to any person who has not been issued and does not possess ~~an Oklahoma restricted a commercial driver license learner permit (issued at least fourteen (14) days prior to the date of the examination)~~ an Oklahoma restricted commercial driver license learner permit (issued at least fourteen (14) days prior to the date of the examination) for the class of vehicle in which the examination is to be given,

(5) administer an examination in a vehicle required to be placarded for hazardous materials.

(6) administer an examination to any person related by consanguinity (by blood relation) or affinity (by marriage) within the third degree, or to any person who is not enrolled in or has enrolled in and completed a course of study, as defined in OAC 595:11-7-2 from the school which employs the examiner.

(7) accept any present or favor from an applicant or any other person who has or may have an interest in the outcome of an examination, or accept any employment which represents a conflict of interest to the examination process,

(8) use the third-party examiner position for any personal advantage, or

(9) commit or omit any act which constitutes a violation of any of the rules of this Subchapter or the laws of this state or federal regulations governing third-party examiner certification.

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(10) administer the skills test to applicants he or she has instructed in the classroom and/or in behind the wheel training.

(11) administer an examination to any student that is not enrolled in or has completed a course of study as defined in OAC 595:11-7-2 from the third-party examiner's employing school.

(c) **Third-party examiner - conduct.** A third-party examiner shall:

- (1) Recognize that his or her position is of the highest public trust and that, on the wisdom of his or her decision, the lives of many people may depend,
- (2) Impartially administer all official duties without regard to race, creed, position, or influence, according no applicant more favorable treatment than any other,
- (3) Conduct each examination in a manner which reflects:
 - (A) its importance to society,
 - (B) its seriousness to the individual, and
 - (C) the unquestioned competence of the examiner,
- (4) Exercise only the legal authority as has been duly vested in the position of a third-party examiner, and
- (5) Fully appreciate and fulfill the responsibilities of his or her certification in order to strengthen public confidence in the training and examination of commercial driver license applicants.

SUBCHAPTER 7. TRUCK DRIVER TRAINING

595:11-7-3. School licenses and instructor permits

(a) **In general.** A school license shall be required for schools who offer instruction to entry-level truck driver trainees who do not possess a valid commercial driver license. An instructor permit shall be required for instructors who teach truck driver training. ~~{47 O.S. § 6-105.2 and 47 O.S. § 801}~~

(1) **Schools - original application.**

(A) All applications for an original school license shall be made on a form provided by the Department. The term of each original school license shall be for a period of ~~three~~one (1) year.

(B) Each application for an original school license shall be accompanied by:

- (i) a fee of Twenty-five Dollars (\$25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,
- (ii) a schedule of fees and charges,
- (iii) a certificate of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage,
- (iv) the make, model and vehicle identification number of each commercial motor vehicle used for training purposes, and
- (v) a sample copy of each type of contract or agreement which the school may enter into with students.

(C) No license fee shall be refunded in the event the license is rejected, suspended or revoked by the Commissioner of Public Safety.

(D) All applications shall be approved by the Department before a school shall be permitted to open for business.

(E) Every operator of a school shall be required to have an instructor permit.

(F) Application for a school license may be obtained:

(i) upon request by mail from the Department of Public Safety, CDL Program Administration, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415, or

(ii) on the world wide web at www.dps.state.ok.us/forms

(G) All schools shall meet the requirements of OAC 595:11-7-13.

(2) **Schools - renewal application.**

(A) All applications for a renewal school license shall be made on a form provided by the Department of Public Safety. The term of each renewal school license shall be for a period of ~~three~~one (1) year.

(B) Each application for a renewal school license shall be accompanied by:

- (i) a fee of Twenty-five Dollars (\$25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,
- (ii) a schedule of fees and charges, if any changes have been made since the last license issuance,

(iii) a certificate of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage,

(iv) a current list of commercial motor vehicles used for training purposes, and the make, model and vehicle identification number of each commercial motor vehicle used for training purposes, and

(v) a sample copy of each type of contract or agreement which the school may enter into with students.

(C) All application forms for renewal school licenses shall be mailed by the Department to each school no later than October 1 ~~of the expiration every~~ year. Each school desiring to renew shall submit an application to the Department no later than November 15 of ~~the each year of expiration~~. If application for renewal is not received by the required date and the Department is unable to process and approve the application by December 31 ~~of the year of expiration~~, the commercial school shall cease operation on January 1 of the year following year ~~of expiration~~ and shall not resume operation until the application for renewal is processed and approved by the Department.

(3) **Instructors - original applications.**

(A) All applications for an original instructor permit shall be made on a form provided by the Department. The term of an original instructor permit shall be for a period of no more than ~~three~~one (1) year. An instructor shall make application for each school location where he or she will be instructing. An instructor permit for a particular school shall become invalid upon termination of employment with that school. If an instructor accepts employment with another school or schools, an instructor permit shall not be transferable, and the instructor shall apply for an original license for each school where he or she is a ~~new employee~~employed.

(B) Each application for an original instructor permit shall be accompanied by:

- (i) documentation required by OAC 595:11-7-4, and
- (ii) a fee of Five Dollars (\$5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one (1) fee of Five Dollars (\$5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars (\$5.00) shall be paid for each school with a different owner.

(4) Instructors - renewal applications.

(A) All applications for a renewal instructor permit shall be made on a form provided by the Department. The term of each renewal instructor permit shall be for a period of ~~three~~one (1) year. An instructor shall make application for each school location where he or she will be instructing. An instructor permit for a particular school shall become invalid upon termination of employment with that school. If an instructor accepts employment with another school or schools, an instructor permit shall not be transferable, and the instructor shall apply for an original license for each school where he or she is a new employee.

(B) Each application for a renewal instructor permit shall be accompanied by:

- (i) documentation required by OAC 595:11-7-4, and
- (ii) a fee of Five Dollars (\$5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one fee of Five Dollars (\$5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars (\$5.00) shall be paid for each school with a different owner.

(C) Any instructor who allows his or her instructor permit to lapse or expire without renewal shall reapply as if for an original instructor permit.

595:11-7-4. Qualifications for instructors

An ~~instructors~~instructor employed by a school shall submit to the Department of Public Safety, upon application, proof of the following:

- (1) ~~being current employed~~current employment by a school which offers a prescribed course of study;
- (2) possessing a valid Oklahoma commercial driver license, with proper class and endorsements commensurate with type or types of vehicles and endorsements which are the subject of instruction;
- (3) being at least twenty-one (21) years of age;
- (4) having never been convicted of a felony as evidenced by ~~an Oklahoma State Bureau of Investigation criminal background check conducted within the immediately preceding thirty (30) days or, if the applicant has not lived in Oklahoma for the immediately preceding five (5) years, a criminal background check from the agency responsible for keeping criminal history in the state or states of residence for the immediately preceding five (5) years~~ a nationwide criminal background check certified within the immediately preceding thirty (30) days;
- (5) if applicable, having driving privileges reinstated for at least twelve (12) months, if driving privileges were suspended, canceled, revoked, denied, or disqualified for a driving-related conviction or for Department action related to driving under the influence or driving while impaired. If driving privileges are suspended, canceled, revoked, denied, or disqualified only for a non-driving-related conviction or reason, the applicant shall be eligible immediately upon reinstatement of driving privileges;
- (6) having not been convicted of misdemeanor possession or use of alcohol or drugs within the past twelve (12) months;
- (7) having not more than five (5) point violations on the driving record;
- (8) having no administrative action pending at the Department pursuant to 47 O.S. " §§ 753, 754, or 754.1;
- (9) having a high school diploma or general education diploma; and
- (10) having three (3) years verifiable driving experience in the type of vehicle or vehicles used by the school for instructional purposes.

595:11-7-13. Requirements for schools and classrooms

(a) **Location and classroom facility of schools.** The school shall:

- (1) have at least one (1) permanent classroom. Each classroom shall be used exclusively for classroom instruction during the time of instruction. A classroom shall not be located in:
 - (A) a residence or residential facility or complex,
 - (B) a motor vehicle, or converted motor vehicle,
 - (C) a hotel or motel, or
 - (D) any other facility which has a bar, lounge, or other business which sells alcohol for public consumption on the premises;
- (2) display its current and valid school license in the licensee's principal place of business at all times when

Emergency Adoptions

classes are in session. The license or a copy of the license shall also be made available for inspection to students or prospective students;

(3) comply with local municipal ordinances regarding lighting, heating, ventilation, and restroom facilities; and

(4) have adequate room for equipment such as chalkboard, projector, tables and chairs for the number of students enrolled in the class being taught ~~at the time~~.

(b) **Advertising.**

(1) No school shall use or conduct any business under any name other than its fully licensed name.

(2) A sign reading "This school is licensed by the Department of Public Safety, State of Oklahoma" or similar language may be displayed on the school premises.

(3) The school may place language such as "This school is licensed by the Department of Public Safety, State of Oklahoma" in any advertisements and publications of the school. However, a school may not use advertisement or publicity that states or implies that the school is specifically or uniquely recognized, recommended, or endorsed, or directly supervised by the Department of Public Safety.

(4) No fraudulent or deceptive statements, promotions, or fee incentives shall be used on any sign or in advertisement, whether written or oral.

(5) No school shall advertise, by any means, or otherwise state or imply that a commercial driver license or permit is guaranteed or assured to any student or individual who will take or complete any instruction offered by the school.

(c) **Agreements and schedule of fees.**

(1) A sample copy of each type of contract or agreement which the school may enter into with students shall be submitted to the Department with the application for an original or renewal license.

(2) Prior to enrollment or payment of fees, each prospective student shall be provided the following information, in writing:

(A) the type of instruction offered, whether classroom or behind-the-wheel, or both;

(B) the length of the course of study and the length of each lesson;

(C) the ~~rate~~cost of the course of study, or the ~~rate~~cost per lesson, as applicable to the fee structure of the school;

(D) the ~~rate~~cost to lease ~~a for use of~~ commercial motor vehicle ~~leased~~ from the school for the purpose of taking the skills examination, ~~if extra charge is made~~;

(E) the terms of payment and disclosure of any interest charged;

(F) a statement indicating the specific date and time when instruction is to start.

(3) The complete schedule of fees shall be posted in easy view of students and prospective students.

(4) If any school fails to comply with the provisions of this Subchapter, the school shall refund, on a prorated basis, all monies collected from the student.

(d) **Records to be maintained.**

(1) Each school shall maintain a permanently bound book with pages consecutively numbered or a computer spreadsheet, setting forth the name of the school; the name of each student; the contract or agreement number for each student; the type and date of instruction given, whether classroom or behind-the-wheel, for each student. If written, all entries shall be made in ink. This record shall be on a daily time sheet form approved by the Department and initialed by each student for verification.

(2) All student instruction records, ~~for classroom and behind-the-wheel instruction and including~~ a duplicate copy of each contract or agreement entered into between the school and the student (the original shall be given to the student) shall be kept on file in the office of each school for a period of three (3) years after the student has concluded instruction at or with the school. Each school shall furnish the student, if requested, an exact copy of his or her instruction record when all of the contracted courses are completed or the student otherwise ceases taking instruction at or with the school. If a school discontinues doing business, the school shall send to the Department a roster of all students who attended the school during the immediately preceding three (3) years, with each student identified as to whether the student successfully completed or did not successfully complete the course of study.

(3) The student instruction record shall contain a copy of a receipt for any monies paid to the school by the student. The receipt shall contain:

(A) The name of the school.

(B) The name of the student.

(C) The date of payment.

(D) The amount of payment.

(E) The signature of the person receiving the payment.

(4) The student instruction record ~~file~~ maintained by the school shall be available at all times for inspection and/or copying by an authorized representative of the Department of Public Safety.

(5) ~~Completion certificates.~~ A copy of the student's completion certificate, in a preprinted format prescribed by the Department, shall be provided and issued by the school to each student upon the successful completion of course work (both classroom and behind-the-wheel). The certificate shall contain, at a minimum, the following:

(A) Name of the school;

(B) Full legal name of student;

(C) Number of total hours of instruction (optional)

(D) Date of completion;

(E) Signature of administrator (a stamped signature is acceptable).

(6) Medical examiner's certificate.

(7) Copy of the student's valid driver license and commercial learner permit.

(8) Copy of proof of Oklahoma residency: utility bill or Government form bearing the name and address of the student.

[OAR Docket #14-850; filed 8-28-14]

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

1:2014-21.

EXECUTIVE ORDER 2014-21

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. until 5 p.m. on Thursday, September 11, 2014, to honor the victims of the September 11, 2001, terrorist attack on America.

This executive order shall be forwarded to the Division 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 9th day of September, 2014.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Bengé
Secretary of State

[OAR Docket #14-861; filed 9-10-14]
