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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 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #02-1462]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Organization and Administration

87:1-3-1 [AMENDED]

87:1-3-6 [REVOKED]

87:1-3-7 [REVOKED]

87:1-3-14 [NEW]

Subchapter 5. Formal and Informal Procedures

87:1-5-9 [AMENDED]

87:1-5-15 [AMENDED]

87:1-5-19 [AMENDED]

SUMMARY:

The proposed changes to Chapter 1 provide clarification. The proposed revisions to Subchapter 3 delete obsolete and redundant text as well as add text memorializing the role of Benefits Coordinators and establishing their responsibilities. The proposed revisions to Subchapter 5 eliminate typographical errors.

AUTHORITY:

Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 5:00 p.m., Central Standard Time on January 15, 2002 at the following address: Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m., Central Standard Time on January 15, 2003 at the offices of the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, Oklahoma. Interested persons can present their views at the public hearing, orally or in writing, but must sign in at the door no later than 1:00 p.m., Central Standard Time, January 15, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Russell Nash, Employees Benefits Council, (405) 232-1190 ext. 105.

[OAR Docket #02-1462; filed 11-19-02]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 10. FLEXIBLE BENEFITS PLAN

[OAR Docket #02-1464]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

87:10-1-2 [AMENDED]

Subchapter 17. Benefit Plan Election

87:10-17-3 [AMENDED]

87:10-17-4 [AMENDED]

Subchapter 25. Dependent Care Reimbursement Account Option

87:10-25-7 [AMENDED]

87:10-25-13 [AMENDED]

Subchapter 27. Health Care Reimbursement Account Option

87:10-27-12 [AMENDED]

Subchapter 33. Cobra Coverage

87:10-33-3 [AMENDED]

SUMMARY:

The proposed changes to Chapter 10 add clarification and flexibility. The proposed changes to Subchapter 1 reinstate previously omitted text defining the Oklahoma State & Education Group Insurance Board. Changes to Subchapters 17, 25, and 27 codify previously approved emergency rules that allow state employees who participate in the Dependent

Notices of Rulemaking Intent

Care Reimbursement Account (DCRA) program, administered by the Employees Benefits Council, to alter their initial elections in the event they experience midyear changes in cost or coverage. Proposed changes to 87:10-17-4 memorialize a long-standing practice relating to electing insurance coverage for eligible dependents. Proposed changes to 87:10-25-7 and Subchapter 33 correct typographical errors.

AUTHORITY:

Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 5:00 p.m., Central Standard Time on January 15, 2002 at the following address: Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m., Central Standard Time on January 15, 2003 at the offices of the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, Oklahoma. Interested persons can present their views at the public hearing, orally or in writing, but must sign in at the door no later than 1:00 p.m., Central Standard Time, January 15, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Russell Nash, Employees Benefits Council, (405) 232-1190 ext. 105.

[OAR Docket #02-1464; filed 11-19-02]

**TITLE 87. OKLAHOMA STATE
EMPLOYEES BENEFITS COUNCIL
CHAPTER 15. COMPETITIVE BIDDING
CRITERIA AND PROCEDURES FOR
CONTRACTS AWARDED FOR FLEXIBLE
BENEFITS PLANS**

[OAR Docket #02-1463]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

87:15-1-1 [AMENDED]
87:15-1-2 [AMENDED]
87:15-1-3 [AMENDED]
87:15-1-4 [AMENDED]
87:15-1-5 [AMENDED]
87:15-1-8 [AMENDED]
87:15-1-10 [AMENDED]

SUMMARY:

The proposed changes to Chapter 15 relate to the competitive bidding process providing clarification and flexibility. The changes define the terms "flexible benefits plan" and "benefits plan." The proposed changes also add financial and regulatory disclosure requirements to bidder registration as well as add a global exception to the registration requirements. Finally, the proposed changes replace specific references to "Health Maintenance Organizations" and "HMO" with the more general "benefits plan" language.

AUTHORITY:

Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 5:00 p.m., Central Standard Time on January 15, 2002 at the following address: Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m., Central Standard Time on January 15, 2003 at the offices of the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, Oklahoma. Interested persons can present their views at the public hearing, orally or in writing, but must sign in at the door no later than 1:00 p.m., Central Standard Time, January 15, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Russell Nash, Employees Benefits Council, (405) 232-1190 ext. 105.

[OAR Docket #02-1463; filed 11-19-02]

**TITLE 175. STATE BOARD OF
COSMETOLOGY
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #02-1480]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 175:1-1-2. [AMENDED]
- Subchapter 3. Board Structure and Agency Administration
- 175:1-3-1 [AMENDED]

SUMMARY:

House Bill 1397 was passed during the 2002 legislative session and became effective November 1, 2002. The Bill gave the Board the authority to allow cosmetology schools to measure student progress in clock hours or credit hours as the Board has deemed appropriate and necessary to further the purposes of the Cosmetology Act.

AUTHORITY:

59 O.S., 1991, Section 199.3 (A); State Board of Cosmetology

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:00 p.m. on January 24, 003 at the following address: Betty Moore, Executive Director, 2401 NW 23rd Street, Suite 84, Oklahoma City, Oklahoma 73107 during the comment period from December 17, 2002 to January 26, 2003.

PUBLIC HEARING:

A public hearing has been scheduled for Monday, January 27, 2003 at 10:00 a.m. in Shephard Mall, 2401 NW 23rd Street, Suite 65, Oklahoma City, Oklahoma. Any one who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The only known business entity affected by these rules are cosmetology schools. There may be some direct or indirect costs to implement these courses but it is anticipated that the costs will be minimal compared to the revenue that will be generated through tuition fees collected for teaching of credit hour courses. Cosmetology school in the state are requested to provide the agency with information in dollar amounts, if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules. Business entities may submit this information to Betty Moore, Executive Director, Oklahoma State Board of Cosmetology at 2401 NW 23rd Street, Suite 84, Oklahoma City, OK 73107 during this comment period from December 17, 2002 to January 26, 2003.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma Sate Board of Cosmetology, 2401 NW 23rd Street, Suite 84, Oklahoma City, Oklahoma. Copies may be obtained by written request mailed to the attention of Betty Moore,

Executive Director, 2401 NW 23rd Street, Suite 84, Oklahoma City, Oklahoma 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after December 17, 2002.

CONTACT PERSON(S):

Betty Moore, Executive Director (405) 521-2441, Jennifer McRee, Principal Assistant (405) 521-2441.

[OAR Docket #02-1480; filed 11-19-02]

**TITLE 175. STATE BOARD OF
COSMETOLOGY
CHAPTER 10. LICENSURE OF
COSMETOLOGISTS, SCHOOLS AND
RELATED ESTABLISHMENTS**

[OAR Docket #02-1479]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Licensure of Cosmetology Schools
- Part 5. Equipment and Curriculum Requirements
- 175:10-3-34 [AMENDED]
- 175:10-3-37 [AMENDED]
- 175:10-3-40 [AMENDED]
- 175:10-3-41 [AMENDED]
- 175:10-3-42 [AMENDED]
- 175:10-3-43 [AMENDED]
- Part 7. General Operations and Licensing Requirements
- 175:10-3-56 [AMENDED]
- 175:10-3-60 [AMENDED]
- 175:10-3-61 [AMENDED]
- 175:10-3-64 [AMENDED]
- 175:10-3-69 [AMENDED]
- 175:10-3-70 [AMENDED]
- 175:10-3-71 [AMENDED]
- 175:10-3-76 [AMENDED]

SUMMARY:

House Bill 1397 was passed during the 2002 legislative session and became effective November 1, 2002. The Bill gave the Board the authority to recognize cosmetology schools as clock hour schools or credit hour schools. The Board is proposing rules as deemed appropriate and necessary to further the purposes of the Cosmetology Act.

AUTHORITY:

59 O.S., Section 199.3 (A); State Board of Cosmetology

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:00 p.m. on January 24, 2003 at the following address: Betty Moore, Executive Director, Oklahoma Sate Board of Cosmetology, 2401 NW 23rd Street, Suite 84, Oklahoma City, OK 73107 during the comment period from December 17, 2002 to January 26, 2003.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing has been scheduled for Monday, January 27, 2003 at 10:00 a.m. in Shephard Mall, 2401 NW 23rd Street, Suite 65, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door at 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The only known business entity affect by these rules are cosmetology schools. There may be some direct and indirect costs to implement a credit hour program but it is anticipated that the costs will be minimal compared to the revenue that will be generated through tuition fees collected for the teaching of these courses. Cosmetology schools in the state of Oklahoma are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules. Business entities may submit this information to Betty Moore, Executive Director, Oklahoma State Board of Cosmetology at 2401 NW 23rd Street, Suite 84, Oklahoma City, Oklahoma 73107 during the comment period from December 17, 2002 to January 26, 2003.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma State Board of Cosmetology, 2401 NW 23rd Street, Suite 84, Oklahoma City, Oklahoma. Copies may be obtained by written request mailed to the attention of Betty Moore, Executive Director, 2401 NW 23rd Street, Suite 84, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after December 17, 2002 at the office of the Oklahoma State Board of Cosmetology, 2401 NW 23rd Street, Suite 84, Oklahoma City, Oklahoma 73107.

CONTACT PERSON(S):

Betty Moore, Executive Director (405) 521-2441 and Jennifer McRee, Principal Assistant (405) 521-2441.

[OAR Docket #02-1479; filed 11-19-02]

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

[OAR Docket #02-1481]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]
- Subchapter 7. Permits for Minor Facilities [AMENDED]
- Subchapter 8. Permits for Part 70 Sources [AMENDED]
- Subchapter 13. Open Burning [AMENDED]

Subchapter 17. Incinerators [AMENDED]

Subchapter 31. Control of Emission of Sulfur Compounds [AMENDED]

Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]

Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]

Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]

SUMMARY:

The Department is proposing changes to Subchapters 1, 7, 8, 17, 31, 35, 37, and 39 as a single action. The intent of these changes is to simplify and clarify defined terms. The proposed changes include the addition of new definitions, changes to existing definitions, and deletion of redundant definitions and definitions no longer being used. To correct an earlier oversight in Subchapter 7, a cross-reference is inserted to direct the reader to the location of two existing permits by rule.

The proposed changes to Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, require periodic stack testing to verify the reported emissions for certain types of fuel-burning equipment. Frequency of testing is based on number of hours of operation. Grounds are set forth for waiver or partial waiver of the stack testing requirement. Standards for stack testing of identical equipment are clarified.

The Department is proposing amendments to Subchapter 13, Open Burning, to clarify the scope of exemptions that allow open burning for purposes of fire training. Section 9 will also be amended to exempt hydrocarbon flares from the prohibition against burning between sunset and sunrise.

The Department proposes the addition of Subchapter 17, Part 9, Commercial and Industrial Solid Waste Incinerator Units (CISWI), to establish state emission standards and other enforceable requirements for existing CISWI. A CISWI is considered an existing CISWI if its construction commenced on or before November 30, 1999, and it was not modified or reconstructed on or after June 1, 2001. These proposed rules would provide the means for implementing and enforcing the federal emission guidelines (40 CFR 60, Subpart DDDD). The new Part 9 incorporates by reference sections of the New Source Performance Standards for CISWI (40 CFR 60, Subpart CCCC). In addition to establishing emission standards for certain regulated pollutants, the new rule will establish permitting, CISWI operator training and qualifications, waste management plans, testing and monitoring of pollutants, and operating parameter requirements. The new Part 9, an inventory of existing CISWI in Oklahoma and their emissions, and other essential elements required by 40 CFR 60 Subparts B and DDDD will comprise Oklahoma's draft State 111(d)/129 Plan. The draft State Plan is available for inspection and comment. The public hearing on the proposed plan will be held concurrently with the hearing on the proposed rules. Also, Parts 1 and 5 of Subchapter 17 would be amended to make them consistent with the proposed new Part 9. Sections in Parts 5 and 7 of Subchapter 17 would be amended to

update the incorporations by reference of federal New Source Performance Standards 40 CFR 60 Subparts Eb and Ec to the versions of these standards that exist on July 1, 2002. The proposed changes to Parts 5 and 7 will be submitted to the U.S. Environmental Protection Agency as amendments to Oklahoma's federally-approved State 111(d) Plans for large municipal waste combustors and hospital, medical and infectious waste incinerators. The hearing on the proposed amended plans will be held concurrently with the hearing on the proposed rule changes.

The Department is proposing to revise Subchapter 31 to further clarify that compliance with the ambient air concentration limits in OAC 252:100-31-7(a) and (b) for sulfur oxides include the entire facility and not just a single emission point or process. The Department also proposes to reinstate the annual ambient air concentration limit for sulfur oxides. In addition, the Department proposes to correct a scrivener's error discovered in the regulatory text of Section 26.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 et seq.

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on January 15, 2003. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 8, 2003. Oral comments may be made at the January 15, 2003 hearing and the February 28, 2003 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Council at 9:00 a.m. on Wednesday, January 15, 2003, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on February 28, 2003, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division of DEQ and on the DEQ website (www.deq.state.ok.us), Air Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-4100.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

CONTACT PERSON:

Please send written comments to Max Price (Subchapter 5), Cheryl Bradley (Subchapter 17), Joyce Sheedy (Subchapter 31), Michelle Martinez (Subchapters 1, 4, 7, 17-2.2, 35, 37, and 39), and Lisa Donovan (Subchapter 13). Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (405) 702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

[OAR Docket #02-1481; filed 11-19-02]

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

[OAR Docket #02-1451]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 9. Long Term Care Facilities
317:30-5-131.2 [AMENDED]
- Part 41. Family Support Services
317:30-5-412 [AMENDED]
- Part 79. Dentists
317:30-5-700.1 [AMENDED]
- Part 83. Residential Behavior Management Services in Foster Care Settings
317:30-5-740 [AMENDED]
317:30-5-740.1 [AMENDED]
317:30-5-741 [AMENDED]
317:30-5-742 [AMENDED]
317:30-5-742.1 [AMENDED]
317:30-5-742.2 [AMENDED]
317:30-5-745 [AMENDED]

(Reference APA WF # 02-14, 02-16, 02-18A, and 02-19)

SUMMARY:

Medical Providers-Fee for Service, Long Term Care specific, rules are revised to comply with provisions of House Bill 2218 of the 2nd Session of the 48th Legislature related to the Quality of Care fund. Revisions comply with these Legislative mandates by allowing: (1) the activity and social services staff who do not provide direct care to patients to be included in the direct-care-staff-to resident ratio until September 1, 2003; and (2) the Agency to assess the daily administrative penalty for incomplete or non-timely filed Quality of Care Reports only after written notification from the Agency has been received by the facility. Current rules allow the activity

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and social services staff who are not providing direct, hands-on care to be included in the direct-care-staff-to-resident ratio in any shift until September 1, 2002. House Bill 2218 allows those individuals to be included in the ratio for an additional year. Existing Quality of Care Report rules allow the Agency to assess an administrative penalty of \$150.00 per calendar day for each day a Medicaid facility's Quality of Care Report is late or incomplete. Provisions of the Legislation delays the Agency from imposing the initial administrative penalty until written notification from the Agency has been received by the facility. Rule revisions are needed in order to comply with provisions of House Bill 2218 of the 2nd Session of the 48th Legislature related to Quality of Care Reports.

Medical Providers-Fee for Service, Dentists specific, rules are revised to remove the replacement of lost or broken retainers from the global fee for orthodontic treatment. Current rules state that the payment for the banding, wires, and adjustments includes all ancillary services, including the removal or repair of appliances, construction and placing of retainers and the replacement of lost or broken retainers for one set fee. Some currently contracted Medicaid Orthodontists are unwilling to continue to render services to Medicaid patients as they have stated that they are no longer willing to absorb the costs of replacing lost or broken retainers. The Agency is federally mandated to provide adequate access to services for the Medicaid eligible population. Therefore, rule revisions are needed to remove the reimbursement for the replacement of lost or broken retainers from the global fee for orthodontic treatment.

Medical Providers-Fee for Service, Family Support Services specific, rules are revised to clarify transportation service availability in the Home and Community-Based Waivers for persons with developmental disabilities. Rules are being established to clarify conditions under which transportation services must be provided. New rules will distinguish among non-adapted transportation, adapted transportation, and public transportation. Revisions will provide guidelines for determining whether a person needs adapted transportation as well as establishing safer standards for transportation providers. Transportation services that are not covered will be specified. In addition, rules will establish procedures for review and authorization of higher amounts of transportation service. Rule revisions are needed in order to clarify transportation service availability for individuals who receive services through the DDS Home and Community-Based Waivers.

Medical Providers-Fee for Service, Residential Behavior Management Services in Foster Care Settings specific, rules are being revised to implement a more cost effective method of providing specialized services to DHS custody children while maintaining an adequate pool of service providers. Revisions replace group therapy services (minimum of three 30 minute sessions per month) with group rehabilitative treatment services (minimum of two 30 minute sessions per month) and define group rehabilitative treatment services. Group rehabilitative services are more appropriate for the population

served in the foster care setting as these services are to help restore the resident's functional level within the community setting. The rule revisions also establish credentialing requirements for providers of group rehabilitative services in foster care setting. Revisions will now allow the admittance of children with a provisional diagnosis to the residential foster care program for a maximum of 30 days. During the 30 day period, a full assessment must be completed by a Mental Health Professional resulting in a DSM IV primary diagnosis for placement in this program to continue. Additional revisions will: (1) clarify provider credentialing; (2) update language to reflect current practices, procedures, and terminology; (3) allow 30 minutes of individual and/or family therapy to be provided in lieu of one hour of group rehabilitative treatment; (4) revise the minimum required individual therapy service from two 30 minute sessions per week to four 30 minute sessions per month; (5) revise the minimum required substance abuse, chemical dependency education, prevention and therapy from two hours per month to two hours per three month period; (6) add discharge planning as a required residential behavior management service (RBMS); and (7) add the American Osteopathic Association as an accreditation body for providers of RBMS. The Department of Human Services or the Office of Juvenile Affairs pay the state share of residential behavior management services for the children in foster care and DHS has requested these revisions to Agency rules. DHS and Agency provider requirements for RBMS have significantly increased in the past few years, yet the rate has remained the same for nine years. DHS staff are concerned that unless these revisions are adopted, there will be a reduction in the number of providers who are willing to contract to provide the specialized services. The inability to find appropriate community based placement for DHS custody children will result in an increase in inpatient psychiatric utilization and costs. Rule revisions are needed in order to implement a more cost effective method of providing residential behavior management services in foster care settings to maintain an adequate pool of service providers.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; House Bill 2218 of the 2nd Session of the 48th Legislature; 63 O.S. 2001, Section 1-1925.2; 42 CFR 440.100; Section 5006 of Title 63 of Oklahoma Statutes; Section 1415.1 of Title 10 of Oklahoma Statutes; 42 CFR 440.130(d)

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(1), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 4:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 15, 2003.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #02-1451; filed 11-14-02]

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

[OAR Docket #02-1452]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. General Provider Policies
 - Part 1. General Scope and Administration
 - 317:30-3-3.1 [AMENDED]
 - 317:30-3-25 [AMENDED]
 - Subchapter 5. Individual Providers and Specialties
 - Part 1. Physicians
 - 317:30-5-2 [AMENDED]
 - Part 3. Hospitals
 - 317:30-5-44 [AMENDED]
 - 317:30-5-47 [AMENDED]
 - Part 5. Pharmacists
 - 317:30-5-70.2 through 317:30-5-70.3 [AMENDED]
 - 317:30-5-72 through 317:30-5-72.1 [AMENDED]
 - 317:30-5-77.2 [AMENDED]
 - 317:30-5-78.1 [AMENDED]
 - 317:30-5-78.2 [AMENDED]
 - 317:30-5-80 [AMENDED]
 - 317:30-5-86 [AMENDED]
 - Part 6. Inpatient Psychiatric Hospitals
 - 317:30-5-95.3 [AMENDED]
 - 317:30-5-96 [AMENDED]
 - Part 7. Certified Laboratories

- 317:30-5-104 [AMENDED]
 - Part 9. Long Term Care Facilities
 - 317:30-5-122 [AMENDED]
 - Part 17. Medical Suppliers
 - 317:30-5-214 [AMENDED]
 - Part 19. Nurse Midwives
 - 317:30-5-226 [AMENDED]
 - Part 23. Podiatrists
 - 317:30-5-261 [AMENDED]
 - Part 25. Psychologists
 - 317:30-5-276 [AMENDED]
 - Part 27. Registered Physical Therapists
 - 317:30-5-291 [AMENDED]
 - Part 29. Renal Dialysis Facilities
 - 317:30-5-306 [AMENDED]
 - Part 33. Transportation by Ambulance
 - 317:30-5-339 [AMENDED]
 - Part 35. Rural Health Clinics
 - 317:30-5-359 [AMENDED]
 - Part 37. Advanced Practice Nurse
 - 317:30-5-376 [AMENDED]
 - Part 45. Optometrists
 - 317:30-5-431 [AMENDED]
 - Part 47. Optical Companies
 - 317:30-5-451 [AMENDED]
 - Part 49. Family Planning Centers
 - 317:30-5-466 [AMENDED]
 - Part 61. Home Health Agencies
 - 317:30-5-546 [AMENDED]
 - Part 63. Ambulatory Surgical Centers
 - 317:30-5-567 [AMENDED]
 - Part 69. Certified Registered Nurse Anesthetists
 - 317:30-5-606 [AMENDED]
 - Part 75. Federally Qualified Health Centers
 - 317:30-5-661 [AMENDED]
 - Part 79. Dentists
 - 317:30-5-696 [AMENDED]
 - Part 81. Chiropractors
 - 317:30-5-721 [AMENDED]
 - Part 89. Radiological Mammographer
 - 317:30-5-903 [AMENDED]
 - Part 108. Nutrition Services
 - 317:30-5-1076 [AMENDED]
- (Reference APA WF # 02-01, 02-03, 02-06, 02-07, 02-08, and 02-10)**

SUMMARY:

Fee for Service rules are revised to: (1) adjust the payment methodology used for payment of Graduate Medical Education (GME) funds to qualifying hospitals, and (2) allow an all-inclusive per diem rate for out-of-state certain residential treatment facilities. The current payment methodology used for Graduate Medical Education pays qualifying hospitals based as an add-on to their fee-for-service rates (cost report data from the base year) and from a "supplemental" GME program which pays to the hospitals from a pool of funds. The pool of funds is made available by State matching funds

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provided by the University Hospital Authority. Revisions to the payment methodology would remove the provision in the fee-for-service rate section that allows for a component of the rate to pay for GME. The funds that are paid through this section will be rolled into the "supplemental" GME pool and paid through that system. This will allow the Agency to simplify GME payments by combining all funds into one program and also allow the Managed Care Plans to negotiate with hospitals that have GME and those that do not without having GME as an obstacle to negotiations. Additionally, revisions are needed in the "supplemental" GME payment method that incorporates the funds from above and distributes the resulting pool of funds in a more equitable fashion. Currently the monies available are allocated quarterly to the hospitals based solely on the number of resident-months that are supported by the hospitals. This method does not take into consideration the Medicaid services rendered. Therefore, revisions are being made to the method which will allocate the funds based on the relative value of those resident-months weighted by the Medicaid services rendered. This relative value will be determined by multiplying the resident-months by the eligible patient days and by the individual hospital acuity factor determined from MMIS data. The total relative value of each hospital will be used to allocate the funds. The results of the GME revisions will allow for the allocation of funds based on all three factors which satisfy the rules governing the payment of services, which state that the payments should be for the Medicaid portion of those expenses to the hospitals. The proposed changes will allow the Agency to distribute the funds for Direct Graduate Medical Education by number of resident months weighted for Medicaid services rendered by acuity of those services as opposed to the current method which only uses number of resident-months as a measure. Other rule revisions are needed to accommodate the payment arrangements for children needing specialized residential treatment programs (such as hearing impairments with behavioral health problems and eating disorder programs) that are not available in Oklahoma. Current rules state that out-of-state facilities shall be reimbursed in the same manner as in-state residential psychiatric treatment centers. However, due to the specialized needs of the client and Oklahoma's generally lower reimbursement rate, many out-of-state facilities will not accept Oklahoma's Medicaid per diem. This has become an ongoing monthly payment adjustment issue for the Agency's Financial Services Division. For now, the out-of-state residential treatment rates are being negotiated by the Behavioral Health Services Unit for children, many of which are in DHS custody. Finance has determined that generally, the rates are no more than what would be paid if the provider billed for the residential programming services and the physicians charges separately. An additional revision is made to agree with amendments to the Code of Federal Regulations (CFR), by adding the Commission on Accreditation of Rehabilitation Facilities (CARF) as an acceptable source of accreditation for residential treatment centers who contract with OHCA to provide services.

Medical Providers-Fee for Service rules are revised to establish the Medicaid Income Deferral Program as authorized in House Bill 1429, as amended by House Bill 1194, of the 1st Session of the 48th Legislature. The purpose of the program is to provide an incentive to physician corporations to participate in the Medicaid program. The program allows physician corporations to defer income from Medicaid payments on a pre-tax basis as long as the corporation continues to participate in Medicaid. This voluntary program helps the Agency meet the statutory mandate of providing recipient access to physician services by aiding in the recruitment and retention of Medicaid providers. Rule revisions are needed to comply with House Bill 1429, as amended by House Bill 1194, of the 1st Session of the 48th Legislature, to establish the Medicaid Income Deferral Program.

Medical Providers-Fee for Services, Pharmacists specific, rules are revised to remove the acute dosing restriction for certain anti-ulcer medications. By implementing this proposed rule change, there will be a decrease in Medicaid administrative costs by reducing the number of prior authorization requests that must be addressed by the pharmacists at the Pharmacy Help Desk as well as a decrease in the cost of medication. The "hassle factor" experienced by providers and clients in obtaining medication for chronic conditions will be greatly decreased. This class of drugs has been monitored over the past two years through utilization of the prior authorization system. It does not appear that providers of clients are using this class of drugs in a manner inconsistent with the manufacturers recommended dosage guidelines. The majority of the patients who most often require this medication are elderly and debilitated. Additional revisions add coverage of the drug Adderall XR to the list of products covered for the treatment of Attention Deficit Hyperactivity Disorder (ADHD) and Narcolepsy in the exceptions to the excluded drug categories. The rule change includes revised language designed to clarify the requirements necessary for prior authorization of drugs in this therapeutic category. This change was precipitated by the availability of a newly marketed slow release product that allows for a once a day treatment and by a desire to clarify the language of the current rule. Rule revisions are needed to provide proper therapy to clients diagnosed with Attention Deficit Hyperactivity Disorder and Narcolepsy, while conforming to medically accepted best practices for those conditions. Other revisions provide clarification on record retention, prescriber numbers, billing, coverage, third party liability, compensability, and reimbursement. Previous rule revisions that were inadvertently omitted from several of these Sections will be incorporated into rules.

Medical Providers-Fee for Service rules are revised to reduce payments to 50% of the coinsurance for Skilled Nursing Facility (SNF) crossover days. Current rules for Long Term Care Facilities state that payment is made for Part A coinsurance only for Medicare covered skilled nursing facility care for certain dually eligible individuals. Due to Agency and State budgetary constraints and the Oklahoma Constitutional requirement to maintain a balanced budget, the Agency

identified several program areas in which significant savings could be made. By reducing the Medicare Part A coinsurance for Medicare covered skilled nursing facility care to 50%, the Agency is estimating an annual state savings of \$1.2 million. Long Term Care Facilities that are contracted with Agency to provide these services are able to recover the monetary difference in their Medicare cost report settlements. Other revisions clarify the Medicare Part A crossover claim's filing process. Revisions to Medicaid Providers-Fee for Services rules are needed in order for the Agency to accomplish a reduction in spending for Medicare Part A SNF crossover services.

Medical Providers-Fee for Service rules are being revised to convert crossover Medicare Part B coinsurance and deductible payments from a percentage value to the Medicaid allowable for comparable services. Currently, rules specify that crossover Medicare Part B claims are paid at the rate of 94 percent of the deductible and 75 percent of the coinsurance. Due to Agency and State budgets constraints, the Agency's Board, through an emergency declaration, approved emergency action in January 2002 to reduce the Medicaid crossover payment to 75 percent of the deductible and eliminate the payment for coinsurance through June 30, 2002. As the financial situation for the Agency and the State has not improved since that time, rules are in need of revision in order to reduce Medicaid crossover payments for Part B services effective July 1, 2002. Agency staff estimates that an annual budget savings of \$9.5 million dollars in state funds will be achieved if the proposed reductions are implemented. Other revisions will remove obsolete language regarding payments for services for Vocational Rehabilitation Services as the Agency is no longer responsible for payment of these claims.

Medical Providers-Fee for Service, Inpatient Hospital Services specific, rules are revised to allow for enhanced Medicaid payments to Oklahoma non-State publicly owned hospitals. The Agency will create a funding pool to provide Medicaid enhanced payments to non-state publicly owned hospitals. These payments are in addition to the basic payment rates to these providers. The funding pool will be calculated by determining the difference between the upper payment limit (based on Medicare payment principles) and the allowable Medicaid payments for each qualifying facility in the State. The combined total of the differences for all qualifying facilities will represent the funding pool. The total pool will be distributed to the participating providers (as an enhanced payment) based on the proportionate share of the total pool among all participating providers. Once each provider receives the enhanced payment (Federal share only), a portion of the funds will be transferred back to the OHCA for other uses. Rule revisions are needed in order to allow for enhanced Medicaid payments to these non-state public hospitals.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 447.1 through 447.361; 42 U.S.C. § 1396 (a)(30); House Bill 1429, Section

2 (63 Okla. Stat. § 5024), as amended by House Bill 1194, of the 1st Session of the 48th Legislature; 56 Okla. Stat. 1010(B)(7); 42 USC § 1396a(a)(13)(a); 42 USC § 1396a(n)(2); Article X, Section 23 of the Oklahoma Constitution; 63 Okla. Stat. § 5006(A)(1); 42 USC § 1396a(a)(30)(A); 42 USC § 1396(w)(1)(A); 42 CFR § 433.51; 42 CFR § 447.272

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(1), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 4:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 15, 2003.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #02-1452; filed 11-14-02]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES**

[OAR Docket #02-1450]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Client Services
Part 9. Service Provisions
317:40-5-103 [NEW]
(Reference APA WF # 02-18B)

Notices of Rulemaking Intent

SUMMARY:

Developmental Disabilities Services rules are revised to clarify transportation service availability in the Home and Community-Based Waivers for persons with developmental disabilities. Rules are being established to clarify conditions under which transportation services must be provided. New rules will distinguish among non-adapted transportation, adapted transportation, and public transportation. Revisions will provide guidelines for determining whether a person needs adapted transportation as well as establishing safer standards for transportation providers. Transportation services that are not covered will be specified. In addition, rules will establish procedures for review and authorization of higher amounts of transportation service. Rule revisions are needed in order to clarify transportation service availability for individuals who receive services through the DDS Home and Community-Based Waivers.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 5006 of Title 63 of Oklahoma Statutes; Section 1415.1 of Title 10 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(1), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 4:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 15, 2003.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #02-1450; filed 11-14-02]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 1. FUNCTION AND STRUCTURE OF THE DEPARTMENT

[OAR Docket #02-1465]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

340:1-1-17 [AMENDED]

340:1-1-18 [AMENDED]

(Reference APA WF #02-42)

SUMMARY:

The purpose of the proposed rules is to update and streamline language to reflect current usage and improve readability, eliminate unnecessary language, and correct scrivner's errors.

AUTHORITY:

Oklahoma Constitution; Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution, and 75 O.S. § 250.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Dena Thayer, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4326.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer at 405-521-4326.

[OAR Docket #02-1465; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS**

[OAR Docket #02-1468]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Office of Client Advocacy

Part 3. Investigations

340:2-3-39 [NEW]

(Reference APA WF # 02-33)

SUMMARY:

This proposed rule describes the use of video surveillance cameras by the Office of Client Advocacy (OCA) in connection with investigations it conducts at Southern Oklahoma Resource Center (SORC), Northern Oklahoma Resource Center (NORCE), and The Greer Center (Greer) pursuant to OAC 340:2-3-32 through 340:2-3-36. The use of video surveillance cameras is an investigation tool that can deter and detect client maltreatment.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and the Vulnerable Adults Act, Section 10-105 of Title 43A of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Judith Storandt, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-525-4850.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1468; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 5. ADULT PROTECTIVE SERVICES [NEW]**

[OAR Docket #02-1466]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [NEW]

340:5-1-1 through 340:5-1-8 [NEW]

Subchapter 3. Reports of Maltreatment of Vulnerable Adults [NEW]

340:5-3-1 through 340:5-3-6 [NEW]

Subchapter 5. Investigation of Adult Protective Services Referrals [NEW]

340:5-5-1 through 340:5-5-7 [NEW]

Subchapter 7. Long Term Care Investigations Section [NEW]

340:5-7-1 [NEW]

(Reference APA WF 02-39)

SUMMARY:

The purpose of the proposed rules is to issue a new Chapter for the Adult Protective Services (APS) Program, contingent upon approval of a request to revoke OAC 340:105-3-1 through 340:105-3-3 and OAC 340:105-3-20 through 340:105-3-37. The responsibility for administering this program was transferred from the Aging Services Division to the Family Support Services Division in an organizational restructuring. OAC 340:5-1-1 is issued to describe APS program goals. OAC 340:5-1-2 is issued to describe principles of APS. OAC 340:5-1-3 is issued to describe APS program coordination. OAC 340:5-1-4 is issued to describe ethical considerations. OAC 340:5-1-5 is issued to describe confidentiality rules for the APS program. OAC 340:5-1-6 is issued to provide definitions used in the APS program. OAC 340:5-1-7 is issued to provide the APS legal base. OAC 340:5-1-8 is issued to provide rules for handling complaints concerning the APS program. OAC 340:5-3-1 is issued to describe rules associated with reporting a need for protective services. OAC 340:5-3-2 is issued to describe the abuse hot line. OAC 340:5-3-3 is issued to describe rules associated with reports received by the county office. OAC 340:5-3-4 is issued to describe rules associated with reports under the jurisdiction of agencies other than local APS. OAC 340:5-3-5 is issued to describe requirements for reports with multiple jurisdictions. OAC 340:5-3-6 is issued to describe screening procedures for reports. OAC 340:5-5-1 is issued to describe the statutory authority for APS. OAC 340:5-5-2 is issued to describe rules for initiating investigations. OAC 340:5-5-3 is issued to describe elements of an APS investigation. OAC 340:5-5-4 is issued to describe special considerations during APS investigations. OAC 340:5-5-5 is issued to describe rules for documentation of APS cases. OAC 340:5-5-6 is issued to describe rules for the provision of protective services to APS clients. OAC 340:5-5-7

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is issued to describe rules for the termination of APS. OAC 340:5-7-1 is issued to describe rules for handling APS reports submitted to the Long Term Care Investigations Section.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 10-101 through 10-111 of Title 43A of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 15, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking, contact Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1466; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)**

[OAR Docket #02-1469]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
 - 340:10-2-1 [AMENDED]
 - 340:10-2-3 [AMENDED]
 - 340:10-2-6 through 340:10-2-8 [AMENDED]
- Subchapter 3. Conditions Of Eligibility - Need
 - Part 1. Resources
 - 340:10-3-5 [AMENDED]
 - 340:10-3-10 [AMENDED]
 - Part 3. Income
 - 340:10-3-26 [AMENDED]

- 340:10-3-32 [AMENDED]
- 340:10-3-40 [AMENDED]
- Part 5. Assistance Payments
 - 340:10-3-56 [AMENDED]
 - 340:10-3-59 [AMENDED]
- Part 7. Transitional Benefits
 - 340:10-3-81 [AMENDED]
- Subchapter 10. Conditions of Eligibility - Deprivation
 - 340:10-10-4 through 340:10-10-7 [AMENDED]
- Subchapter 14. Conditions of Eligibility - Immunizations
 - 340:10-14-1 [AMENDED]
- Subchapter 20. Diversion Assistance
 - 340:10-20-1 [AMENDED]

(Reference APA WF # 02-22, 02-36)

SUMMARY:

The purpose of the proposed rules is to revise language which is out-of-date or duplicated elsewhere in 340:10, to change language to reflect current usage and improve readability, eliminate unnecessary language, and clarify existing rules. The proposed rules will facilitate the delivery of benefits and services to Temporary Assistance for Needy Families (TANF) applicants and recipients and prevent errors caused by the lack of clear and concise rules. 340:10-2-1 is revised amending the word recipient to parent(s) or needy caretaker. 340:10-2-3 is revised relocating statements for continuity and clarifying assessment tools utilized to develop feasible employability plans for TANF applicants and recipients. 340:10-2-6 is revised relocating statements for clarity and continuity and eliminating out-of-date and duplicated rules. 340:10-2-7 is revised changing language to reflect current usage. 340:10-2-8 is revised clarifying existing language regarding participation allowances and changing language to reflect current usage. 340:10-3-5 is revised changing language to reflect current usage, amending resource disregards to be consistent with existing rules. 340:10-3-10 is revised eliminating out-of-date rules. 340:10-3-26 is revised changing language to reflect current usage and clarity. 340:10-3-32 is revised clarifying language regarding allowable costs for producing self-employment income. 340:10-3-40 is revised changing language to reflect current usage and to be consistent with existing rules. 340:10-3-56 is revised changing language to reflect current usage and to improve readability. 340:10-3-59 is revised clarifying language to agree with existing rules. 340:10-3-81 is revised changing language to reflect current usage. 340:10-10-4, 340:10-10-5, 340:10-10-6, and 340:10-10-7 are revised eliminating unnecessary language to improve readability, clarifying language to agree with existing rules, and changing language to reflect current usage. 340:10-14-1 is revised amending language to agree with existing rules. 340:10-20-1 is revised amending language to clarify existing rules.

AUTHORITY:

Oklahoma Constitution; Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution, 56 Oklahoma Statute (O.S.) § 230.50, 56 O.S. § 230.52, 56 O.S. § 230-55, 56 O.S. § 230-56, 56 O.S. § 230-60,

56 O.S. § 230-62, 56 O.S. § 230-63, 56 O.S. § 230-64, 56 O.S. § 230-65, 56 O.S. § 230-66, 56 O.S. § 237, 56 O.S. § 237-7, 56 O.S. § 240-1; Personal Responsibility and Work Opportunity Act of 1996; Section 234 of the Antiterrorism and Effective Death Penalty Act of 1996 amended; and Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) (Public Law 107-56 Section 622(a)-(e)).

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1469; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)**

[OAR Docket #02-1470]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Low Income Home Energy Assistance Program

340:20-1-12 [AMENDED]

340:20-1-14 [AMENDED]

340:20-1-17 [AMENDED]

(Reference APA WF # 02-37)

SUMMARY:

340:20-1-12 is revised to reference the correct Low Income Home Energy Assistance Program (LIHEAP) application forms. 340:20-1-14 is revised by deleting the words Data Services Division and Department and adding language that exempts county staff from sending notices to certain energy vendors. 340:20-1-17 is revised to reference the correct

LIHEAP application forms, replace out-of-date terms, and eliminate unnecessary language.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Title XXVI of Public Law 97-35, the Omnibus Budget Reconciliation Act.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1470; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SERVICES**

[OAR Docket #02-1471]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Initial Application

340:40-3-1 [AMENDED]

Subchapter 5. Plan of Service

340:40-5-1 [AMENDED]

Subchapter 7. Eligibility

340:40-7-3 [AMENDED]

340:40-7-8 [AMENDED]

340:40-7-11 [AMENDED]

Subchapter 13. Child Care Rates and Provider Issues

340:40-13-3 [AMENDED]

340:40-13-5 [AMENDED]

(Reference APA WF # 02-16 and 02-27)

SUMMARY:

340:40-3-1 is revised by removing references to procedures that are no longer applicable; adding language that requires

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application processing to be completed statewide within two working days of receiving verification; adding a requirement that the client must choose a child care provider who has a valid contract on the date child care begins; allowing expedited application processing when required verification is beyond the client's control to provide; and changing the title of social services specialist to worker. 340:40-5-1 is revised by adding language to clarify that the natural or adoptive parent who lives in the home and does not meet a need factor is also considered an alternative to subsidized child care; requiring the client to choose a child care provider who has a valid contract on the date child care begins; adding exception criteria for the selection of a one star facility; and changing the title of social services specialist to worker. 340:40-7-3 is revised by changing the date a child is no longer eligible for child care assistance to the day before the 13th birthday for a typical child and the day before the 19th birthday for a child with disabilities or a child in DHS custody. 340:40-7-8 is revised by adding language allowing child care benefits to be reduced or terminated when counseling is unsuccessful; ending child care approval for a child with disabilities on the day before the child's 19th birthday; and changing the title of social services specialist to worker. 340:40-7-11 is revised by changing the method for computing self-employment income to allow payments on the principal of the purchase price of income producing property to be considered; inserting references for the Workforce Investment Act; and adding language to clarify that recurring lump sum payments include income from earnings. 340:40-13-3 is revised by adding language to clarify the criteria used in determining child care rates and changing the date a child is no longer eligible for child care assistance to the day before the 13th birthday for a typical child and the day before the 19th birthday for a child with disabilities or a child in DHS custody. 340:40-13-5 is revised by adding language stipulating that child care center providers must have a status of one star plus, two star, or three star before a contract is submitted for DHS approval; describing when a new contract can be approved for a one star child care center; specifying that the provider completes all identifying information on the contract; and changing the title of social services specialist to worker.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-193]; the Balanced Budget Act of 1997 [Pub. L. 105-33]; and 45 CFR Parts 98 and 99.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by

contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1471; filed 11-19-02]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 50. FOOD STAMP PROGRAM

[OAR Docket #02-1472]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

340:50-1-3 [AMENDED]

340:50-1-5 [AMENDED]

340:50-1-9 [AMENDED]

Subchapter 3. The Application Process

340:50-3-1 [AMENDED]

340:50-3-3 [AMENDED]

Subchapter 5. Non-Financial Eligibility Criteria

Part 1. Household Definition

340:50-5-5 [AMENDED]

340:50-5-7 [AMENDED]

Part 3. Special Households

340:50-5-28 [REVOKED]

Part 5. Students, Strikers, Resident Farm Laborers, Migrant

Households, Sponsored Aliens, and School Employees

340:50-5-45 through 340:50-5-46 [AMENDED]

Part 7. Related Provisions

340:50-5-68 [AMENDED]

Part 9. Work Registration

340:50-5-88 [AMENDED]

Subchapter 7. Financial Eligibility Criteria

Part 1. Resources

340:50-7-2 [AMENDED]

Part 3. Income

340:50-7-22 through 340:50-7-24 [AMENDED]

340:50-7-25 [REVOKED]

340:50-7-26 [AMENDED]

340:50-7-28 through 340:50-7-29 [AMENDED]

340:50-7-31 [AMENDED]

Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-4 [AMENDED]
Subchapter 13. Fair Hearings
340:50-13-3 [AMENDED]
Subchapter 15. Overpayments and Fraud
Part 1. Overpayments
340:50-15-5 [AMENDED]
Part 3. Fraud
340:50-15-27 [AMENDED]
Appendix B. List of Needed Verifications [REVOKED]
Appendix C. Application for Food Stamps [REVOKED]
Appendix N. Head of Household Designation [REVOKED]
(Reference APA WF # 02-41)

SUMMARY:

The purpose of the proposed rules is to simplify the definition of income and resources as allowed by the Food Stamp Reauthorization Act of 2002 and clarify rules by removing unnecessary language and replacing out-of-date terms. Food Stamp Program rules are revised to exclude educational assistance income and all Indian per capita payments not counted under Temporary Assistance for Needy Families (TANF) rules. 340:50-1-3 and 340:50-3-1 are revised to remove references to coupons and food stamp identification cards. 340:50-1-5 and 340:50-5-46 are revised by removing references to coupons. 340:50-1-9 is revised by replacing the word agency with Department of Human Services. 340:50-3-3 is revised to reflect the correct form name and number for requesting release of information. 340:50-5-5 is revised to reflect the correct form name and number for informing the client of an eligibility determination delay. 340:50-5-7 is revised by clarifying that residents of public or private non-profit shelters for homeless persons are eligible for participation in the Food Stamp Program. 340:50-5-28 and 340:50-7-25 are revoked. 340:50-5-45 is revised by changing references to the Job Training Partnership Act to Workforce Investment Act and removing language concerning student income. 340:50-5-68 is revised by removing unnecessary words. 340:50-5-88 is revised by changing the maximum child care payment for work registrants with a child under 12 years of age. 340:50-7-2 is revised by adding language to exclude educational assistance and Individual Development Accounts as resources. 340:50-7-22 is revised by adding language to exclude educational assistance, Indian per capita payments, and purchases made with excluded Indian per capita payments as income. 340:50-7-23, 340:50-7-26, and 340:50-9-4 are revised removing out-of-date language. 340:50-7-24 is revised by removing language concerning reimbursements for education expenses. 340:50-7-28 is revised by removing references to State Emergency Payments. 340:50-7-29 is revised by removing educational grants as countable income. 340:50-7-31 is revised to specify that allowable shelter and dependent care expenses paid by or billed to a disqualified household member are prorated among household members and that the disqualified member's share is not considered a deductible shelter expense for the

remaining household members. 340:50-13-3 is revised to replace out-of-date terms and describe what steps are followed when the household refuses to cooperate with a quality control reviewer. 340:50-15-5 is revised to reflect the correct form for requesting a fair hearing. 340:50-15-27 is revised to incorporate by reference the state and federal laws pertaining to Food Stamp Program penalties. 340:50, Appendices B, C, and N are revoked as they are no long used.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Title IV of Public Law 107-171, Sections 4102 and 4107.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1472; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES**

[OAR Docket #02-1473]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Eligibility for Benefits
340:65-3-1 [AMENDED]
340:65-3-5 [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part 1. General Provisions
340:65-5-6 [AMENDED]
(Reference APA WF # 02-26 and 02-38)

Notices of Rulemaking Intent

SUMMARY:

340:65-3-1 is revised by adding rules for requesting information or verification from the client. 340:65-5-6 is revised by adding language to clarify when reconsideration of an administrative action is required. 340:65-3-5 is revised by removing language requiring Temporary Assistance for Needy Families (TANF) households to meet all conditions of eligibility for the month of certification as well as the date of authorization.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; 56 O.S. § 230.50; 56 O.S. § 230.52; and 56 O.S. § 230-55; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-19].

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1473; filed 11-19-02]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE

[OAR Docket #02-1476]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. Scope and Applicability

340:75-1-9 [AMENDED]

340:75-1-16 [AMENDED]

340:75-1-18.1 [AMENDED]

340:75-1-20 through 340:75-1-21 [AMENDED]

Subchapter 3. Child Protective Services

340:75-3-5 [AMENDED]

340:75-3-10.1 [AMENDED]

Subchapter 6. Permanency Planning

Part 7. Case Plans

340:75-6-40.5 [AMENDED]

Part 11. Permanency Planning and Placement Services

340:75-6-85 through 340:75-6-86 [AMENDED]

Subchapter 15. Adoptions

Part 14. Post Adoption Services

340:75-15-128 through 340:75-15-128.6 [AMENDED]

340:75-15-128.7 [REVOKED]

(Reference APA WF # 02-23, 02-28, and 02-30)

SUMMARY:

The proposed revisions to Subchapters 1, 3, 6, and 15 of Chapter 75 comport with state and federal mandates and policy format guidelines and incorporate amendments to statute regarding: (1) the time frame for filing a petition for termination in situations where children have been in out-of-home care 15 of the most recent 22 months; (2) including the foster parent(s) as a placement preference; (3) permanency hearings every 12 months while a child is in out-of-home care; (4) six-month post adjudication review board (PARB) reviews for cases where the child is alleged to be deprived; (5) notification to the court when a child is removed from an out-of-home placement; (6) provisions of the Oklahoma Adoption Assistance Act for monthly assistance payments to families who adopt children with special needs; (7) the ineligibility of children placed by licensed private nonprofit agencies for state funded adoption assistance; (8) the process for denying adoption assistance and the procedure for requesting a fair hearing; (9) eligibility for Difficulty of Care (DOC) Rates V or VI; (10) establishing an adoption assistance program for eligible children with special needs in the custody of DHS or an Indian tribe who are not eligible for the federally funded program; (11) the responsibilities of the Office of Client Advocacy (OCA) regarding the investigation of alleged child abuse and neglect by a community services worker; (12) the protocol for the placement of an infant who is at-risk; and (13) criteria for removal of a child from an educational or child care facility by a CW worker.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Senate Bill 1661; Senate Bill 1329, which includes amendments to Sections 7003-2.1 and 7004-3.4 of Title 10 of the Oklahoma Statutes; Sections 7510-1.1 et seq. of Title 10 of the Oklahoma Statutes; 45 Code of Federal Regulations 1356.40; and Administration for Children and Families (ACF) Child Welfare Manual.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting Millie Carpenter, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-6325.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 15, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer at 405-521-4326.

[OAR Docket #02-1476; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE**

[OAR Docket #02-1477]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
Part 15. Training for Child Welfare Workers
340:75-1-241 [NEW]

(Reference APA WF # 02-34)

SUMMARY:

The proposed revision to Subchapter 1 of Chapter 75 adds Section 241 which details the educational practicums in county offices available to students in social work or related fields and offers guidance to those interested in a Child Welfare (CW) career.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Section 162 of Title 56 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting Millie Carpenter, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-6325.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 15, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1477; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE**

[OAR Docket #02-1478]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 6. Permanency Planning
Part 7. Case Plans
340:75-6-40.1 [AMENDED]
340:75-6-40.6 [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Substitute Care
Part 7. Medical Services
340:75-13-83 [NEW]

(Reference APA WF # 02-35)

SUMMARY:

The proposed revisions to Subchapters 6 and 13 of Chapter 75 incorporate Oklahoma's Title XIX Child Welfare Targeted Case Management (CWTCM) Program and associated activities. The CWTCM program was implemented based on Title XIX State Plan Amendment, TN# 97-10, June 29, 1998. The revisions are made to provide a rules-based program description and additional documentation for the program.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and State Plan - Under Title XIX of the Social Security Act.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting Millie Carpenter, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-6325.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 15, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1478; filed 11-19-02]

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

[OAR Docket #02-1474]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

340:100-1-2 [AMENDED]

340:100-1-4 [REVOKED]

Subchapter 3. Administration

Part 1. General Administration

340:100-3-6 [AMENDED]

340:100-3-14 [NEW]

Part 3. Operations

340:100-3-27 [AMENDED]

340:100-3-27.1 through 340:100-3-27.5 [NEW]

340:100-3-28 [AMENDED]

340:100-3-33.1 [NEW]

340:100-3-38 [AMENDED]

340:100-3-38.1 through 340:100-3-38.11 [NEW]

Subchapter 5. Client Services

Part 3. Service Provisions

340:100-5-22.1 [AMENDED]

340:100-5-22.4 through 100-5-22.5 [NEW]

340:100-5-26 [AMENDED]

340:100-5-26.1 [NEW]

340:100-5-31 [RESERVED]

340:100-5-32 through 340:100-5-33 [NEW]

Part 5. Individualized Individual Planning

340:100-5-50 through 340:100-5-53 [AMENDED]

340:100-5-55 [REVOKED]

340:100-5-56 through 340:100-5-57 [AMENDED]

340:100-5-57.1 [NEW]

340:100-5-58 [AMENDED]

Subchapter 6. Group Home Regulations

Part 15. Medication Storage and Administration

340:100-6-70 [AMENDED]

(Reference APA WF # 02-20, 02-21, 02-25, 02-31, 02-40)

SUMMARY:

Developmental Disabilities Services Division (DDSD) rules are revised: to improve service delivery to individuals receiving services from DDSD who reside in the community; and provide oversight and guidance to staff and contract providers regarding needs of persons with challenging behaviors. New rules are established to: provide guidelines for determination by DDSD staff of the necessity of services to be provided; emphasize prevention, planning, and oversight to reduce the use of physical restraint and other behavioral procedures that restrict the rights of individuals; and ensure compliance with residential services requirements of the Homeward Bound vs. The Hissom Memorial Center consent decree. 340:100-1-2 is revised to include new definitions to support new and revised rules, and definitions of words that are no longer found in Chapter 100 are deleted. 340:100-1-4 is revoked. 340:100-3-6 is revised, clarifying and strengthening the responsibilities of the Human Rights Committees. 340:100-3-14 is a new section addressing responsibilities of the Statewide Behavior Review Committee to ensure that protective intervention plans comply with Department of Human Services (DHS) rules on the use of restrictive or intrusive procedures. 340:100-3-27 is revised to include a requirement that the contract provider employ sufficient program coordination staff to provide one program coordinator for each ten individuals receiving residential supports when a violation(s) of program coordination requirements found in 340:100-5-22.1 remains uncorrected 60 days following the provider's receipt of a written report of the findings; and divide the inordinately long Section into shorter Sections, 100-3-27.1 through 100-3-27.5. 340:100-3-28 is updated to correspond with current DHS rules. 340:100-3-33.1 is established to provide guidelines for determination by DDSD staff of the necessity of services to be provided. 340:100-3-38 is revised to specify different training requirements for different job functions in DDSD and in the community service system and divide the inordinately long Section into shorter, more specific Sections, 340:100-3-38.1 through 100-3-38.11. 340:100-3-38.1 and 340:100-3-38.3 are revised to remove the confusing and no-longer relevant rule that residential services were considered to be in place if the household received more than 84 hours of staff support per week. 340:100-3-38.2 is revised to correct the inadvertent omission of staff providing community-based employment services from the rule. 340:100-3-38.4 is revised to require on-going annual training, as required for all other providers, for persons providing specialized foster care. 340:100-3-38.6 is revised to require that case management supervisors take

the training required for the case managers they supervise. 340:100-3-38.7 is revised to remove a confusing duplication regarding behavior support training. 340:100-3-38.10 is revised to correct an error that stated the same information two times using somewhat different language. 340:100-5-22.1 is revised to provide qualifications and work requirements for staff supervising direct support staff in contract residential programs and remove the confusing and no-longer relevant rule that residential services were considered to be in place if the household received more than 84 hours of staff support per week. 340:100-5-22.4 is established to reflect the various residential options available for members of the Homeward Bound class. 340:100-5-22.5 specifies state-funded services provided for class members receiving supported living services and agency companion services. 340:10-5-26 is revised to remove rules regarding use of psychotropic medications and for cleanup. 340:100-5-26.1 establishes new rules governing the individual's Personal Support Team (Team) responses when psychotropic medication is prescribed. 340:100-5-32 establishes new rules regarding requirements for medication administration in community programs. 340:100-5-33 establishes new rules to provide guidance for contract service providers in the event of a medication error. 340:100-5-50 through 100-5-53 are revised to refine the development of each person's Individual Plan and the operation of the Team. 340:100-5-55 is revoked. 340:100-5-56 is revised to address safety issues in each person's life. 340:100-5-57 is revised to address planning for any sort of identified risk, rather than addressing only challenging behavior. 340:100-5-57.1 is a new section addressing requirements for reporting and monitoring the use of restrictive or intrusive procedures. 340:100-5-58 is updated including new restrictions on the use of physical management and physical restraint in community programs. 340:100-6-70 is revised to indicate that group home providers now follow rules at 340:100-5-32.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Section 1415.1 of Title 10 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Leslie Parks, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4974.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1474; filed 11-19-02]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 105. AGING SERVICES
DIVISION**

[OAR Docket #02-1475]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Aging Services Division
340:105-1-8 [AMENDED]
 - Subchapter 3. Adult Protective Services [REVOKED]
 - Part 1. Philosophy and Purpose [REVOKED]
340:105-3-1 through 340:105-3-3 [REVOKED]
 - Part 3. Reports of Alleged Abuse, Neglect or Exploitation [REVOKED]
340:105-3-20 through 340:105-3-25.1 [REVOKED]
340:105-3-25.4 through 340:105-3-37 [REVOKED]
 - Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
 - Part 5. Area Agencies on Aging
340:105-10-32 [AMENDED]
 - Part 7. Program Standards for Services Funded Under Title III
340:105-10-51 through 340:105-10-52 [AMENDED]
340:105-10-72 through 340:105-10-74 [AMENDED]
340:105-10-86 [AMENDED]
 - Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-95 [AMENDED]
 - Subchapter 11. Statewide Long-Term Care Ombudsman Program
 - Part 37. Statewide Long-Term Care Ombudsman Program
340:105-11-255 [AMENDED]
- (Reference APA WF# 02-29)

SUMMARY:

Aging Services Division (ASD) rules are revised to provide clearer oversight and guidance to staff and contract providers; comply with mandatory requirements from the Older Americans Act (OAA) as amended in 2000; and correct spelling. Subchapter 3. Adult Protective Services (APS) is revoked, contingent upon approval of new rules in OAC 340:5. The responsibility for administering APS was transferred from ASD to the Family Support Services Division in an organizational restructuring. 340:105-1-8 is revised to require transportation contractors to provide additional information

Notices of Rulemaking Intent

on equipment titles. 340:105-10-32 is revised to include consistency and clarity to Area Agency on Aging (AAA) advisory council functions. 340:105-10-51 is revised to include appropriate intake procedures. 340:105-10-52 is revised to include consistency and clarity to Title III project advisory council functions. 340:105-10-72 is revised to include nutrition consultant guidance. 340:105-10-73 is revised to include consistency and clarity to congregate meal project advisory council functions. 340:105-10-74 is revised to include procedures on documenting nutrition education. 340:105-10-86 is revised to include providing an analysis of data when opening a new meal site. 340:105-10-95 is revised to include Older Americans Act amendments of 2000. 340:105-11-255 is revised to correct spelling.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Older Americans Act (OAA), as amended 2000.

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting, Nadine Beat-Walter, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-3077.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #02-1475; filed 11-19-02]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 110. LICENSING SERVICES

[OAR Docket #02-1467]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Requirements for Child-Placing Agencies
Part 1. Requirements for Child-Placing Agencies

340:110-5-3 [AMENDED]

Part 3. Requirements for Adoption Agencies

340:110-5-24 [NEW]

340:110-5-25 [AMENDED]

340:110-5-26 [REVOKED]

340:110-5-27 [AMENDED]

340:110-5-28 [REVOKED]

340:110-5-29 through 340:110-5-37 [AMENDED]

340:110-5-37.1 [NEW]

340:110-5-38 [AMENDED]

(Reference APA WF # 02-19)

SUMMARY:

Division of Child Care (DCC) Licensing Services rules are revised in Subchapter 5 to clarify procedures and provide direction to child-placing agencies who assist families in adopting children, regarding addition or refinement of: (1) definitions, including "legal risk placement," "openness in adoption," and "post-adoption services"; (2) pre- and post-adoptive placement services for birth families; (3) pre-certification education and services for adoptive families; and (4) requirements concerning: documentation of expenses paid by the agency on behalf of birth parents; confidentiality and the preservation of closed records; adoptive family assessment; services provided in the adoption of special needs or older children; eligibility for subsidy and assistance; and documentation of the adoptive child's history.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Oklahoma Child Care Facilities Licensing Act, Sections 401 through 410 of Title 10 and the Oklahoma Adoption Code, Section 7501-1.1 et seq., of Title 10 of the Oklahoma Statutes; and the Adoption and Safe Families Act (ASFA) of 1997 (111 Stat. 2115).

COMMENT PERIOD:

Written and oral comments will be accepted December 16, 2002 through January 15, 2003 during regular business hours by contacting Mitzi Lee or Susan Case, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-3561.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 15, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer at 405-521-4326.

[OAR Docket #02-1467; filed 11-19-02]

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES**

[OAR Docket #02-1447]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Minimum Standards for Approved Nursing Education Programs

485:10-5-6 [AMENDED]

Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse

485:10-7-1 [AMENDED]

485:10-7-4 [AMENDED]

Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse

485:10-9-1 [AMENDED]

485:10-9-4 [AMENDED]

Subchapter 10. Advanced Unlicensed Assistive Personnel

485:10-10-3 [AMENDED]

485:10-10-8 [AMENDED]

Subchapter 15. Requirements for Practice as an Advanced Practice Nurse

485:10-15-9 [AMENDED]

SUMMARY:

Subchapter 5 identifies minimum standards that must be met by a nursing education program in order to obtain and maintain approval by the Oklahoma Board of Nursing. The proposed changes to Section 485: 10-5-6 (d)(1) and (e)(1) are to add specific clinical requirements to be included in nursing education program curricula. These changes will ensure that graduates of all nursing education programs will have clinical practice in nursing care of the adult, nursing care of children, and maternal-infant nursing, and that graduates of registered nursing education program will also have clinical practice in psychiatric/mental health nursing. Such clinical practice is necessary to ensure that graduates are able to practice nursing safely and will enhance their ability to be licensed in other states.

Subchapter 7 and 9 identify requirements for registration and licensure as a Registered Nurse and Licensed Practical Nurse respectively. The proposed changes to Section 485: 10-7-1 (a) and Section 485: 10-9-1 (a)(2) are to promote consistency in the language used in the requirements for licensure and registration of Registered Nurses and Licensed Practical Nurses. The proposed changes to Section 485: 10-7-1 (a)(2) and Section 485: 10-9-1 (a)(3) are to require

that applicants for Oklahoma licensure who have graduated from out-of-state programs have completed board-approved programs conducted within member board jurisdictions with similar curricular requirements as Oklahoma nursing education programs. The proposed change to Section 485: 10-9-1 (a)(3)(B)(i) is an update of the U.S. Army classification used to designate medics who have completed the U.S. Army practical nursing course. The proposed changes to Sections 485: 10-7-1 (b)(1), 485: 10-7-4(b), 485: 10-9-1 (b)(1), and 485: 10-9-4(b) are to identify the period of time the applications and fees are valid.

Subchapter 10 identifies requirements for Advanced Unlicensed Assistive Personnel. In 485: 10-10-3 (b), the length of the training program for Advanced Unlicensed Assistive Personnel is changed from 240 hours to 200 hours. Training for Advanced Unlicensed Assistive Personnel can be provided in the reduced number of hours, because skills that are no longer performed by Advanced Unlicensed Assistants have been removed from the curriculum. The proposed change in 485:10-10-8 is to ensure advanced unlicensed assistive persons meet continued qualifications for practice by inserting language inadvertently omitted when this Rules was revised during the 2002 Legislative Session. This change was approved as an emergency rule October 10, 2002.

The purpose of the proposed change to 485:10-15-9 is to correct the Rules to be consistent with the Oklahoma Nursing Practice Act, requiring the Certified Registered Nurse Anesthetist to maintain recertification by the Council on Recertification of Nurse Anesthetists.

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §567.2A.3, §567.3a.10.a.(2), § 567.3a.13, §567.4.F, §567.5.A.4, §567.6.A.5, §567.7.B, §567.12A.& B.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by January 24, 2003 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106 Attn: Gayle McNish, MS, RN

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 28, 2003 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 28, 2003

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, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by January 24, 2003 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Gayle McNish, MS, RN

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Gayle McNish, MS, RN, at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available. The rule impact statement may be obtained by contacting Gayle McNish, MS, RN, at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

CONTACT PERSON:

Gayle McNish, MS, RN (405) 962-1800

[OAR Docket #02-1447; filed 11-8-02]

TITLE 485. OKLAHOMA BOARD OF NURSING CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #02-1448]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Requirements for Practice as an Advanced Practice Nurse
485:10-15-6 [AMENDED]

SUMMARY:

Subchapter 15 addresses the requirements for practice as an advanced practice nurse in Oklahoma. The proposed changes define the adult and family psychiatric mental health specialties of the Advanced Registered Nurse Practitioner (ARNP). Graduate nursing educational programs are preparing ARNP students to function in the adult and family psychiatric mental health specialties, and there is a national certification examination for this ARNP specialty.

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §567.2A.3, §567.3a6, and §567.4.F

COMMENT PERIOD:

Persons wishing to submit written comments must do so by January 24, 2003 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, Attn: Patrice Greenawalt, MS, RN.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 28, 2003 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 28, 2003.

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, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by January 24, 2003 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Patrice Greenawalt, MS, RN.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Patrice Greenawalt, MS, RN, at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and available. The rule impact statement may be obtained by contacting Patrice Greenawalt, MS, RN, at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

CONTACT PERSON:

Patrice Greenawalt (405) 962-1800

[OAR Docket #02-1448; filed 11-8-02]

TITLE 485. OKLAHOMA BOARD OF NURSING CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #02-1449]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Disciplinary Action
485:10-11-3 [AMENDED]
Subchapter 19. Peer Assistance Program
485:10-19-4 [AMENDED]

SUMMARY:

The proposed revisions to 485:10-11-3 addresses regulations regarding Informal Dispositions of individual proceedings. Currently, the Informal Disposition Panel can only be conducted when two panel members are present. The proposed revisions to 485:10-11-3 would allow the Informal Disposition Panel to be conducted with the presence of one or more panel members. Thus, the proceedings could continue as scheduled if one of the panel members had to recuse from a proceeding or leave the proceedings due to an emergency.

The proposed revisions to 485:10-19-4 addresses regulations regarding the Peer Assistance Committees. The composition of the Committee specifies one member must have NNSA or CADC certification. The proposed revision deletes the NNSA or CADC certification and adds the certification must be through the Addictions Nursing Certification Board, the National Association of Alcohol and Drug Abuse Counselor Certification Board or the Oklahoma Drug and Alcohol Professional Counselor Certification Board.

The NNSA certification's name has changed and it's certifying body, Addictions Nursing Certification Board, currently has two certifications for expertise in addictions. The current specific designation of CADC is limiting as there are other certifications indicating expertise in addictions granted by the National Association of Alcohol and Drug Abuse Counselor Certification Board and the Oklahoma Drug and Alcohol Professional Counselor Certification Board.

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. § 567.2.A.3., § 567.4.F., and § 567.17.B.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by January 24, 2003 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, Attn: Norma Wallace.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 28, 2003 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 28, 2003.

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, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by January 24, 2003 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Norma Wallace

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Norma Wallace at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and available. The rule impact statement may be obtained by contacting Norma Wallace at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

CONTACT PERSON:

Norma Wallace (405) 962-1800

[OAR Docket #02-1449; filed 11-8-02]

**TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 1. ORGANIZATION OF BOARD AND PROCEDURES FOR HANDLING COMPLAINTS**

[OAR Docket #02-1460]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

575:1-1-2 Organization and proceedings of the Board; petitions for rule making; declaratory rulings [AMENDED]

575:1-1-3 Investigation of complaints [AMENDED]

575:1-1-4 Hearings for psychologists [AMENDED]

SUMMARY:

The proposed amendments would clarify reimbursement for travel expenses as stated in state statute. The proposed amendments would clarify the activities performed by the Psychological Consultant. The proposed amendments would modify the procedure for appointing an investigator and the Probable Cause Committee's procedure on reporting their recommendations to the Board. The proposed amendments would modify the Board's procedure for monitoring compliance with the Board's Orders.

AUTHORITY:

The State Board of Examiners of Psychologists has the authority to promulgate Rules for this area of control according to Title 59, O.S. 1991, Section 1352.1(8).

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m., January 24, 2003, at the office of the State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma, 73105.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Saturday, January 25, 2003, in room 419C of the State Capitol, 2300 N. Lincoln, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules are available for public inspection at the office of the State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma. Contact Sue Fleming, Executive Officer, at 405-524-9094.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement is being prepared and will be made available for review in the office of the Board of Examiners of Psychologists at the above address beginning December 31, 2002.

Notices of Rulemaking Intent

CONTACT PERSON:

Sue A. Fleming, Executive Officer, (405) 524-9094

[OAR Docket #02-1460; filed 11-19-02]

TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS CHAPTER 10. LICENSURE OF PSYCHOLOGISTS

[OAR Docket #02-1459]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

575:10-1-2 Requirements to become licensed as a psychologist [AMENDED]

575:10-1-3 Private Practice Under Supervision [AMENDED]

575:10-1-4 Fees for applicants [AMENDED]

575:10-1-5 Psychologists' licenses; license status; public inquiries [AMENDED]

575:10-1-6 Directory listing of licensed psychologists [AMENDED]

575:10-1-7 Hiring of psychological technicians by psychologists [AMENDED]

575:10-1-8 Continuing education for psychologists [AMENDED]

575:10-1-10 A Code of Ethics for psychologists [AMENDED]

SUMMARY:

The proposed rule amendments would modify the procedure for submitting an application for licensure and amend the rule regarding the return of the fee for the national examination. The proposed rule amendments would modify the requirements for requesting permission to practice under supervision, and the requirements for supervision. The proposed rule amendments would clarify the fees to be submitted along with the application for licensure and for re-examination. The proposed rule amendments would clarify the way inquiries would be reported concerning the status of a psychologist with an invalid license due to not meeting the requirements for renewal. The proposed rule amendments would amend the date the Psychologists Licensing Act was last amended. The proposed amendments would modify the listing for a diplomate of the American Board of Professional Psychology. The proposed amendments would modify the requirements for Health Service Psychologist certification. The proposed amendments would revise the requirements for QMRP status for Psychological Technicians. The proposed rule amendments would include the word professional with continuing education and clarify the review of continuing education activities and how the list is provided to psychologists. The proposed rule amendments would revise the year of the current revision to the Association of State and

Provincial Psychology Board's Code of Conduct which has been adopted by the Board.

AUTHORITY:

The State Board of Examiners of Psychologists has the authority to promulgate Rules for this area of control according to Title 59, O.S. 1991, Section 1352.1(8).

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m., January 24, 2003. at the office of the State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Saturday, January 25, 2003, in Room 419C of the State Capitol, 2300 N. Lincoln, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules are available for public inspection at the office of the State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma. Contact Sue Fleming, Executive Officer, at 524-9094.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement is being prepared and will be made available in the office of the Board of Examiners of Psychologists at the above address beginning December 31, 2002.

CONTACT PERSON:

Sue A. Fleming, Executive Officer, (405) 524-9094

[OAR Docket #02-1459; filed 11-19-02]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 5. FEES

[OAR Docket #02-1482]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

785:5-1-16. Fees required in other matters [AMENDED]

SUMMARY:

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing to amend OAC 785:5-1-16 in order to provide for charging convenience fees for electronic/online transactions. This amendment is needed in order to provide persons who do business with the OWRB the opportunity to utilize the Internet to file applications and reports and perform other functions currently done through the mail or in person. State law at 62 O.S. §§ 41.5q and 41.5s enacted in 2001 recognized the need for a state portal system to foster

electronic commerce between constituents and state agencies, and allows agencies to charge convenience fees for online transactions under certain circumstances. The intended effect of the proposed amendment is to allow the OWRB and its constituents to utilize the state portal system to file applications and reports and perform other functions online, and to allow the OWRB to charge convenience fees therefor as authorized by state law.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 62 O.S. §§ 41.5q and 41.5s.

COMMENT PERIOD:

Persons wishing to present data, views or arguments orally or in writing may do so at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 before 5:00 p.m. on January 21, 2003. In addition, persons may submit oral or written comments during the public hearing described below. Proposed amendments are scheduled to be presented to the OWRB at its regular meeting on February 11, 2003. The OWRB may or may not choose to consider additional comments at its February 11, 2003 meeting.

PUBLIC HEARING:

A hearing on the proposed rules is scheduled for January 21, 2003, at 10:00 a.m. in the Board Room of the OWRB's offices located at 3800 North Classen Boulevard, Oklahoma City, Oklahoma. Persons may present their views on the proposed rules orally or in writing during the hearing.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from December 16, 2002 through January 21, 2003, in dollar amounts if possible, 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 rules. Business entities may submit this information in writing to Dean Couch at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 by January 21, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be reviewed at the OWRB's office location at 3800 North Classen Boulevard, Oklahoma City, Oklahoma, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Dean Couch, General Counsel, (405) 530-8800.

[OAR Docket #02-1482; filed 11-19-02]

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 20. APPROPRIATION AND USE OF STREAM WATER**

[OAR Docket #02-1483]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 20. Appropriation and Use of Stream Water [AMENDED]

SUMMARY:

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing to amend OAC 785:20 in the following ways:

(1) By providing for protection of the flow in the "scenic river area" of Barren Fork Creek in eastern Oklahoma. The proposed rule is to add a minimum instream flow protection provision of 35 cubic feet per second for the Barren Fork Creek in Adair and Cherokee Counties. This rule is needed because a portion of the Barren Fork is designated as a "scenic river area" in the Scenic Rivers Act, 82 O.S. § 1451 and following, and the demand for appropriations of water from the stream or its tributaries could diminish the Barren Fork flow contrary to the preservation purposes of the Scenic Rivers Act. The intended effect of the rule is to provide guidance to the OWRB and to prospective users in determining how much water can be safely appropriated from the stream while protecting the flow and preserving the stream in its natural scenic state in accordance with the Scenic Rivers Act.

(2) By providing for online filing via the Internet of applications for provisional temporary permits and other permits for appropriation of stream water. These rules are needed for convenience of those who do business with the OWRB, and because applicants for these permits often need to begin using the water in a short time. State law at 62 O.S. §§ 41.5q and 41.5s enacted in 2001 has recognized the need for a state portal system to foster electronic commerce between constituents and state agencies, and allows agencies to charge convenience fees for online transactions under certain circumstances. The intended effect of these rules is to provide convenience for applicants who desire permits for stream water use, and to expedite the time it takes for these applicants to get their applications approved.

(3) Several provisions throughout OAC 785:20 are proposed to be amended to correct typographical, grammatical, formatting, and other errors; and to update citations. The circumstances which created the need for these amendments are that several rules contain typographical, grammatical, formatting, and other errors. Several rules contain statutory, rule or other citations which have recently been or are being changed. The intended effect of these amendments is to make the rules reflect the appropriate definitions, spelling, grammar, format, citations, and otherwise to state their text accurately.

Notices of Rulemaking Intent

In addition to the proposed rules described herein, it is possible that interested persons may, during the comment period, comment or request that other provisions of Chapter 20 be amended. While the Board staff is not at this time proposing any other amendments, all interested persons should be on notice that it is possible that staff may propose additional amendments or new rules for adoption by the Board if public comment indicates that such proposals are appropriate and justified.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S., §§ 105.1 et seq., 1085.2, 1452, 1453 and 1454; 62 O.S. §§ 41.5q and 41.5s.

COMMENT PERIOD:

Persons wishing to present data, views or arguments orally or in writing may do so at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 before 5:00 p.m. on January 21, 2003. In addition, persons may submit oral or written comments during the public hearing described below. Proposed amendments are scheduled to be presented to the OWRB at its regular meeting on February 11, 2003. The OWRB may or may not choose to consider additional comments at its February 11, 2003 meeting.

PUBLIC HEARING:

A hearing on the proposed rules is scheduled for January 21, 2003, at 10:00 a.m. in the Board Room of the OWRB's offices located at 3800 North Classen Boulevard, Oklahoma City, Oklahoma. Persons may present their views on the proposed rules orally or in writing during the hearing.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from December 16, 2002 through January 21, 2003, in dollar amounts if possible, 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 rules. Business entities may submit this information in writing to Dean Couch at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 by January 21, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be reviewed at the OWRB's office location at 3800 North Classen Boulevard, Oklahoma City, Oklahoma, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Dean Couch, General Counsel, (405) 530-8800.

[OAR Docket #02-1483; filed 11-19-02]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 30. TAKING AND USE OF GROUNDWATER

[OAR Docket #02-1484]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 30. Taking and Use of Groundwater [AMENDED]

SUMMARY:

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing to amend OAC 785:30 as follows:

(1) By providing for online filing via the Internet of applications for provisional temporary permits and other permits for use of groundwater. These rules are needed for convenience of those who do business with the OWRB, and because applicants for these permits often need to begin using the water in a short time. State law at 62 O.S. §§ 41.5q and 41.5s enacted in 2001 has recognized the need for a state portal system to foster electronic commerce between constituents and state agencies, and allows agencies to charge convenience fees for online transactions under certain circumstances. The intended effect of these rules is to provide convenience for applicants who desire permits for groundwater use, and to expedite the time it takes for these applicants to get their applications approved.

(2) Several provisions throughout OAC 785:30 are proposed to be amended to correct typographical, grammatical, formatting, and other errors; and to update citations. The circumstances which created the need for these amendments are that several rules contain typographical, grammatical, formatting, and other errors. Several rules contain statutory, rule or other citations which have recently been or are being changed. The intended effect of these amendments is to make the rules reflect the appropriate definitions, spelling, grammar, format, citations, and otherwise to state their text accurately.

In addition to the proposed rules described herein, it is possible that interested persons may, during the comment period, comment or request that other provisions of Chapter 30 be amended. While the Board staff is not at this time proposing any other amendments, all interested persons should be on notice that it is possible that staff may propose additional amendments or new rules for adoption by the Board if public comment indicates that such proposals are appropriate and justified.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S., §§ 1085.2 and 1020.10; 62 O.S. §§ 41.5q and 41.5s.

COMMENT PERIOD:

Persons wishing to present data, views or arguments orally or in writing may do so at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 before 5:00 p.m. on January 21, 2003. In addition, persons may submit oral or written comments during the public hearing described

below. Proposed amendments are scheduled to be presented to the OWRB at its regular meeting on February 11, 2003. The OWRB may or may not choose to consider additional comments at its February 11, 2003 meeting.

PUBLIC HEARING:

A hearing on the proposed rules is scheduled for January 21, 2003, at 10:00 a.m. in the Board Room of the OWRB's offices located at 3800 North Classen Boulevard, Oklahoma City, Oklahoma. Persons may present their views on the proposed rules orally or in writing during the hearing.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from December 16, 2002 through January 21, 2003, in dollar amounts if possible, 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 rules. Business entities may submit this information in writing to Dean Couch at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 by January 21, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be reviewed at the OWRB's office location at 3800 North Classen Boulevard, Oklahoma City, Oklahoma, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Dean Couch, General Counsel, (405) 530-8800.

[OAR Docket #02-1484; filed 11-19-02]

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 35. WELL DRILLER AND PUMP INSTALLER LICENSING**

[OAR Docket #02-1485]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 35. Well Driller and Pump Installer Licensing
[AMENDED]

SUMMARY:

The Oklahoma Water Resources Board ("Board") has received a number of rule recommendations from the Board's Well Drillers and Pump Installers Advisory Council. The Board proposes to amend its rules to implement many of these

recommendations, including but not necessarily limited to the following:

(a) amending OAC Section 785:35-1-2 to add certain definitions for direct push geotechnical boring (a kind of geothermal/heat exchange wells), open-loop heat pump water supply well, vertical closed-loop heat pump well, and water return well. The new definitions are needed to reflect the technological advances in the respective industries;

(b) amending OAC Section 785:35-1-4 to clarify conditions and any penalty associated with the failure of a licensee to submit a multipurpose completion report within 60 days after completion of a certified activity as required by current Board rules. This amendment is intended as an incentive for licensees to submit the required data and to increase compliance of the existing rule;

(c) amending OAC Section 785:35-1-6 to clarify that the Board will seek nominations for membership on the Well Drillers and Pump Installers Advisory Council from the five Congressional Districts instead of requiring that members shall serve from the Congressional districts. An amendment would also add pump installer as an alternative qualification for Council membership instead of only well drillers;

(d) amending OAC Sections 785:35-3-2, 785:35-5-1 and 785:35-5-2 to add a new continuing education requirement for all licensees and operators as a condition to renew a well driller or pump installer license. The amendment would require that all licensees and operators obtain four (4) units of approved continuing education per year or eight (8) units per a two-year renewal period as the case may be (a renewal period of one year would require only four continuing education units). The proposed amendment is intended to increase the professionalism and expertise of the licensees and operators in the well drilling and pump installation industry in Oklahoma and to achieve a greater level of compliance with current Board construction standards;

(e) amending OAC Section 785:35-5-1 to eliminate the requirement to affix a rig sticker provided by the Board on well drilling rigs associated with licensed well driller and pump installer activities;

(f) amending OAC Section 785:35-7-1 and creating OAC Section 785:35-7-1.1 to provide a separate and more specific provisions relating to construction of geothermal/heat exchange wells. Geothermal/heat exchange wells is a separate license activity category by current rule and construction requirements and standards should be separate from water well rules. The Well Drillers and Pump Installers Advisory Council recommended amendments to rules to meet current industry recommended standards while considering site-specific conditions related to the geology and hydrology found within the State of Oklahoma;

(g) amended OAC Section 785:35-7-3 to provide that the Board may require a licensed professional engineer to certify variances for well construction unless specifically requested by the Board, to clarify that the landowner will be acquired to assume all liability resulting from the variances if issued by the Board, and to specify an additional seal requirement;

Notices of Rulemaking Intent

(h) amending OAC Section 785:35-11-2 to provide specific language relating to the plugging of direct push geotechnical borings to allow a more practical and economical method for plugging small diameter borings while maintaining protection of the groundwater; and

(i) Several provisions throughout OAC 785:30 are proposed to be amended to correct typographical, grammatical, formatting, and other errors; and to update citations. The circumstances which created the need for these amendments are that several rules contain typographical, grammatical, formatting, and other errors. Several rules contain statutory, rule or other citations which have recently been or are being changed. The intended effect of these amendments is to make the rules reflect the appropriate definitions, spelling, grammar, format, citations, and otherwise to state their text accurately.

In addition to the proposed rules described herein, it is possible that interested persons may, during the comment period, comment or request that other provisions of Chapter 30 be amended. While the Board staff is not at this time proposing any other amendments, all interested persons should be on notice that it is possible that staff may propose additional amendments or new rules for adoption by the Board if public comment indicates that such proposals are appropriate and justified.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. 2001, §§1085.2 and 1020.16

COMMENT PERIOD:

The comment period begins on December 16, 2002. Persons wishing to present data, views or arguments orally or in writing may do so at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 before 5:00 p.m. on January 21, 2003. In addition, persons may submit oral or written comments during the public hearing described below. Proposed amendments are scheduled to be presented to the Board at its regular meeting on February 11, 2003. The Board may or may not choose to consider additional comments at its February 11, 2003 meeting.

PUBLIC HEARING:

A hearing on the proposed rules is scheduled for January 21, 2003, at 10:00 a.m. in the Board Room of the Board's offices located at 3800 North Classen Boulevard, Oklahoma City, Oklahoma. Persons may present their views on the proposed rules orally or in writing during the hearing.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Board requests that any business entities affected by these proposed rules provide the Board, within the Comment Period from December 16, 2002 through January 21, 2003, in dollar amounts if possible, 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 rules. Business entities may submit this information in writing to

Dean Couch at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 by January 21, 2003.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be reviewed at the Board's office location at 3800 North Classen Boulevard, Oklahoma City, Oklahoma, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a Rule Impact Statement is available for review at the Board's office, 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Kent Wilkins, Coordinator of State Well Drillers and Pump Installers Program, Planning and Management Division (405) 530-8800.

[OAR Docket #02-1485; filed 11-19-02]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 50. FINANCIAL ASSISTANCE

[OAR Docket #02-1486]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 50. Financial Assistance [AMENDED]

SUMMARY:

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing to amend OAC 785:50 as follows:

(1) Staff is proposing to amend OAC 785:50-8-5 in order to implement the statutory changes to the Rural Economic Action Plan Grant Program (the "REAP Program") made by Enrolled Senate Bill 1247 enacted during the 2002 legislative session. Senate Bill 1247 amended 62 O.S. § 2003 to change the priority scoring criteria for population of municipalities from less than 1500 persons to less than 1750 persons. The OWRB has previously promulgated rules that set comparable priority scoring criteria for other eligible entities such as rural water and sewer districts and public school districts. Under the current rules, rural water and sewer districts currently receive priority scoring if they have less than 450 non-pasture customers, and school districts currently receive priority scoring if they have an average daily membership of less than 450 students. The 450 figure is based on approximately 30% of the former statutory criterion of 1500 population. The proposed rulemaking would modify the criterion to less than 525 non-pasture customers or less than 525 average daily membership. The proposed 525 figure represents approximately 30% of the current statutory criterion of 1750 population. This rulemaking will allow the OWRB to apply this change in criteria to future application funding cycles that consider applications submitted by September 1 of each year.

(2) Several provisions throughout OAC 785:50 are proposed to be amended to correct typographical, grammatical, formatting, and other errors; and to update citations. The circumstances which created the need for these amendments are that several rules contain typographical, grammatical, formatting, and other errors. Several rules contain statutory, rule or other citations which have recently been or are being changed. The intended effect of these amendments is to make the rules reflect the appropriate definitions, spelling, grammar, format, citations, and otherwise to state their text accurately.

In addition to the proposed amendments described herein, it is possible that interested persons may, during the comment period, comment or request that other provisions of Chapter 50 be amended. While the OWRB staff is not at this time proposing any other amendments, all interested persons should be on notice that it is possible that staff may propose additional amendments or new rules for adoption by the OWRB if public comment indicates that such proposals are appropriate and justified.

Additional format changes may be made as necessary in response to requirements of the Secretary of State's Office of Administrative Rules.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. 2001, § 1085.2; 62 O.S. Supp. 2002, § 2003.

COMMENT PERIOD:

Persons wishing to present data, views or arguments orally or in writing may do so at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 before 5:00 p.m. on January 21, 2003. In addition, persons may submit oral or written comments during the public hearing described below. Proposed amendments are scheduled to be presented to the OWRB at its regular meeting on February 11, 2003. The OWRB may or may not choose to consider additional comments at its February 11, 2003 meeting.

PUBLIC HEARING:

A hearing on the proposed rules is scheduled for January 21, 2003, at 10:00 a.m. in the Board Room of the OWRB's offices located at 3800 North Classen Boulevard, Oklahoma City, Oklahoma. Persons may present their views on the proposed rules orally or in writing during the hearing.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from December 16, 2002 through January 21, 2003, in dollar amounts if possible, 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 rules. Business entities may submit this information in writing to Nathan Ellis at 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118 by January 21, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be reviewed at the OWRB's office location at 3800 North Classen Boulevard, Oklahoma City, Oklahoma, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Nathan Ellis, Assistant Chief, Financial Assistance Division, (405) 530-8800.

[OAR Docket #02-1486; filed 11-19-02]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the Office of Administrative Rules (OAR) publishes a notice of such gubernatorial approval in the *Register*.
For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

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

[OAR Docket #02-1444]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 11. Importation of Livestock, Poultry, and Pets

Part 7. Livestock

35:15-11-15 [NEW]

35:15-11-18 [AMENDED]

Subchapter 47. Chronic Wasting Disease (CWD) in ~~Cervids~~

Cervidae

Part 1. General

35:15-47-1 [AMENDED]

35:15-47-2 [AMENDED]

Part 3. Herd Certification Standards

35:15-47-6 [AMENDED]

Part 5. Disposition of Positive and Trace Herds

35:15-47-10 through 35:15-47-14 [AMENDED]

Part 7. Interstate Movement Requirements

35:15-47-18 [AMENDED]

GUBERNATORIAL APPROVAL:

October 29, 2002

[OAR Docket #02-1444; filed 11-8-02]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency [action]. . . . [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

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

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 50. AQUACULTURE [NEW]

[OAR Docket #02-1443]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. Private Commercial Production [NEW]

Part 1. General Provisions [NEW]

35:50-1-1 [NEW]

35:50-1-2 [NEW]

Part 3. Licensing, Reporting, and Records [NEW]

35:50-1-30 through 35:50-1-38 [NEW]

AUTHORITY:

Oklahoma State Board of Agriculture; Senate Bill 920 passed the 48th Legislature, Second Session. New language to be codified in the Oklahoma Agriculture Code, 2 O.S. § 6-311 et seq. (2002)

DATES:

Adoption:

October 28, 2002

Approved by Governor:

October 31, 2002

Effective:

November 1, 2002 or immediately upon Governor's approval, whichever is later

Expiration:

Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

Senate Bill 920 that becomes effective November 20, 2002, moves the licensing of aquaculture facilities to the Oklahoma Department of Agriculture, Food, and Forestry from the Oklahoma Department of Wildlife Conservation. The statutes leave certain areas of the law to be detailed by rules promulgated by the State Board of Agriculture. The current licenses of the facilities expire December 31, 2002 and the cost of aquatic culture decals required on all hauling units must be in place by November 1, 2002. These emergency rules will provide a temporary framework for the licensing of the facilities and the purchasing of the decals until permanent rules can be promulgated. Therefore, the agency finds a compelling public interest for these emergency rules.

ANALYSIS:

The purpose of the proposed rules is to meet the needs of the new program moved to this agency by Senate Bill 920 that becomes effective November 1, 2002. The rules lay out a temporary framework for the initial and renewal of aquaculture licenses, expansion requirements, cost of aquatic culture decals, record keeping, technical services, complaints, inspections, annual reporting, and emergency notifications. This rule is needed to promote the continued growth and economic development of the aquaculture industry in Oklahoma.

CONTACT PERSON:

Dr. Burke Healey, State Veterinarian, Animal Industry Division, (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2002, WHICHEVER IS LATER:

SUBCHAPTER 1. PRIVATE COMMERCIAL PRODUCTION

PART 1. GENERAL PROVISIONS

35:50-1-1. Purpose

These rules shall regulate the private commercial production of catfish, minnows, fingerlings, fish, frogs, or other aquatic species within the state of Oklahoma. The rules provide requirements for licensing aquaculture facilities to operate within the state of Oklahoma. These rules specifically prohibit the importation or exportation of minnows and other fish species that are subject to the provisions of Sections 4-105, 4-115, and 7-602 of Title 29 of the Oklahoma Statutes.

35:50-1-2. Definitions

"Aquaculture operation" means a private commercial producer of catfish, minnows, fingerlings, fish, frogs, or other aquatic species.

"Aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrates, amphibians, or reptiles.

"BMP" means Best Management Practices.

"Fingerling" means a small fish up to one year of age.

"Operator" means the individual who has responsibility for the day to day operations of the facility. The operator may also be the owner.

"Owner" means the individual who has financial responsibility for the aquaculture operation and whose name appears as owner on all legal documents.

PART 3. LICENSING, REPORTING, AND RECORDS

Emergency Adoptions

35:50-1-30. Initial licensing requirements

Every aquaculture operation shall obtain a license and aquaculture hauling unit decals from the Department.

- (1) A duplicate license may be issued at the cost of five dollars (\$5.00) each.
- (2) Licenses are non-transferable.
- (3) A license may be revoked pursuant to Title 2, Section 6-316 F1-4.
- (4) No license shall be issued prior to an initial inspection by the Department.
- (5) Each hauling unit used in the transportation of live aquatic species shall have two (2) decals purchased from the Department at the cost of one dollar twenty-five cents (\$1.25) per decal.
- (6) Prior to issuance of a license, an applicant shall provide the following to the Department:
 - (A) A license fee of ten dollars (\$10.00).
 - (B) Proof of identification including the applicant's age or date of birth and current residency information.
 - (C) A list of all persons with control or decision-making authority at the aquaculture operation, including but not limited to owners, operators, and managers.
 - (D) A list of hauling unit(s).
 - (E) If applicable, copies of any permits directly related to the aquaculture operation issued by the Oklahoma Department of Environmental Quality (including a copy of any BMP submitted to the Oklahoma Department of Environmental Quality), the Oklahoma Water Resources Board, and the Army Corps of Engineers.
 - (F) A map or aerial photograph showing the aquaculture operation including the facilities and property lines, and specifies the legal description of the property or Global Positioning System (GPS) coordinates.
 - (G) A catastrophic aquatic species die-off disposal plan that requires immediate notification to the Department and is approved by the Department for emergency purposes.

35:50-1-31. Renewal licensing requirements

Each aquaculture operation shall renew the license and aquaculture vehicle decals by December 31st of each year.

- (1) The renewal application shall include the following:
 - (A) A renewal fee of ten dollars (\$10.00). Any renewal fee received after the annual renewal deadline of December 31st shall be assessed a late fee of ten dollars (\$10.00).
 - (B) A copy of any modifications, changes, updates, or renewals to the items listed in (6)(B) through (G) of Rule 35:50-1-30.
 - (C) An annual report.
- (2) Two decals for each hauling unit used in the transportation of live aquatic species shall be purchased from the Department at the cost of one dollar twenty-five cents (\$1.25) per decal.

35:50-1-32. Inspections

The Department shall conduct at least one inspection every two (2) years of each licensed aquaculture operation.

35:50-1-33. Annual report

Each licensed aquaculture operation shall file an annual report by December 31st of each year. (1) The aquaculture operation license shall not be issued or renewed without submission of the annual report.

- (2) The annual report shall provide the following information for the 12 month period starting December 1st of last year through November 31st of the current calendar year:
 - (A) A list of each type of aquatic species propagated and bought for resale.
 - (B) The total number or pounds of each aquatic species sold, further identified as fingerlings or adults.
 - (C) The total number of pond acres in production.
 - (D) The method of aquatic species propagation; i.e. ponds, cages, raceway, or other methods.
 - (E) A list of each water supply source including but not limited to runoff, well water, stream water, or other sources.

35:50-1-34. Facility expansion requirements

(a) The licensee shall notify the Department on a form provided by the Department of any expansion of an aquaculture operation.

(b) Every licensed aquaculture facility expanding after November 1, 2002, shall provide the following:

- (1) A copy of the construction permit issued by the Army Corps of Engineers, if applicable.
- (2) A copy of any modifications, changes, updates, or renewals of any permit issued by the Oklahoma Department of Environmental Quality, the operation's BMP, or the catastrophic aquatic species die-off disposal plan.

35:50-1-35. Record keeping

The following records shall be retained on site for three (3) years:

- (1) Copies of each annual report.
- (2) Copies of all construction permits issued by the Army Corps of Engineers, if applicable.
- (3) All Aquaculture Operation Licenses issued by the Department.
- (4) Copies of all permits and BMP's required by the Oklahoma Department of Environmental Quality, if applicable.
- (5) Copies of inspection reports.
- (6) Any laboratory analysis sheets pertaining to the health of the aquatic species.
- (7) Any and all documents relating to diseased aquatic species and disposal of carcasses.

35:50-1-36. Emergency notifications

Licensed aquaculture operations shall immediately notify the Department of any abnormal disease outbreak, any catastrophic aquatic species die-off, or any unusual aquatic species mortalities.

35:50-1-37. Technical services

The Department may provide technical assistance recommendations to owners of licensed aquaculture operations at the rate of thirty dollars (\$30.00) per hour. In addition, any costs for supplies, mileage, or other expenses shall be paid by the owner.

35:50-1-38. Complaints

The Department shall investigate all complaints made against an aquaculture operation to determine compliance with the statutes and rules of the state of Oklahoma. Any violations of state law may result in fines, revocation of the Aquaculture Operations License, or criminal prosecution.

*[OAR Docket #02-1443; filed 11-8-02]
(format accepted 11-14-02)*

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

[OAR Docket #02-1442]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 13. Student Assessment
210:10-13-2 [AMENDED]
210:10-13-4 [AMENDED]
210:10-13-6 [AMENDED]
210:10-13-7 [AMENDED]
210:10-13-14 [AMENDED]

AUTHORITY:
70 O.S. § 3-104, State Board of Education

DATES:
Adoption:
August 22, 2002

Approved by Governor:
October 10, 2002

Effective:
Immediately upon Governor's approval

Expiration:
Effective through July 14, 2003 unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

FINDING OF EMERGENCY:
The proposed rule change is of compelling public interest to facilitate the No Child Left Behind Act of 2001, a federal law.

ANALYSIS:
The purpose of the proposed rule changes is to facilitate effective implementation of the mandated assessment testing by aligning current rules with the requirements of 2001 federal law (HR1), by aligning rules with requirements of state statute, and by clarifying terminology.

CONTACT PERSON:
Valerie Payne, 405-521-3308

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

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-2. Oklahoma school testing program scope and general administration

(a) All public school districts shall administer the state mandated tests to all students in the designated grades. The series of tests shall be field-tested/implemented by the amended schedule in Title 70 O.S., Section 1210.508-, or federal law.

(1) Students with Individualized Education Programs (IEPs) shall have an appropriate statement on the IEP requiring administration of the Oklahoma School Testing Program (OSTP) or alternate assessment. Any accommodations normally employed and needed must exist on the IEP. All documentation for each student shall be on file in the local school before tests are administered.

(2) ~~Students who have been determined to be limited English proficient (LEP) as identified in Public Law 103-382 may be exempted during their first full academic year of enrollment in Oklahoma schools. The LEP exemptions apply specifically to those students who have been appropriately identified, through criteria established by the local school districts, as requiring specialized instructional services designed to increase their English proficiency and academic performance. At the discretion of the local district, a student will be exempt from participating in the Oklahoma School Testing Program provided the following conditions have been met:~~

~~(A) LEP students may only be exempted during their first full academic year of enrollment in Oklahoma schools.~~

~~(B) For every LEP student exempted, the local district shall have on file verification that the student is receiving special instruction designed for the specific purpose of improving the LEP student's English proficiency. Oklahoma Attorney General's Opinion #75-231 (October 2, 1975) states that "all federally assisted school districts in Oklahoma are under an affirmative duty to make remedial efforts by providing bilingual classes or otherwise as necessary to meet the linguistic needs of pupils who enter school unable to speak and understand the English language." This duty has been determined under a Supreme Court decision (Lau vs. Nichols 414 U.S. 563.39L.Ed. 2d1, 94 S.Ct. 786, 1974) and is required by federal law (Paragraph 2, Article VI, U.S. Constitution).~~

~~(C) The local district shall have on file a record of having notified the LEP students' parents or legal guardians of the Oklahoma School Testing Program~~

Emergency Adoptions

~~and giving the parents or legal guardians the option of requesting that their child be exempted from participating.~~

~~(D) For every LEP student exempted the local district shall have on file written permission for the exemption from the parents or legal guardians; and~~

~~(E) The total number of LEP students exempted by a local school district must not exceed the number of LEP students reported on the district's Accreditation Application for the current school year.~~

~~(F) Students identified as LEP may be provided acceptable accommodations, the need for which to be determined by the local school district.~~

~~(G) Students identified as LEP shall participate in the OSTP or a locally determined alternate assessment provided by the local school district. For guidance in determining when an alternate assessment is appropriate, according to PL 103-382, LEP students ... "shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students' mastery of skills in subjects other than English."~~

(2) Students who have been determined to be limited English proficient (LEP), also known as English language learners (ELL), as identified in Public Law H.R.1 will be included in the state-mandated tests. ELL students are those who have been appropriately identified, through English proficiency screening by the local school districts, as requiring specialized instructional services designed to increase their English proficiency and academic performance. For every student identified as ELL, the local district shall have on file verification that the student is receiving special instruction designed for the specific purpose of improving the ELL student's English proficiency. Students identified as ELL will be included in the state-mandated testing in the following ways:

(A) ELL students will be administered an annual assessment of English proficiency (measuring students' oral language, reading and writing skills in English) by the local school district, beginning with their first year of enrollment, according to federal legislation.

(B) ELL students shall be administered the state-mandated academic achievement tests in reading and language (written in English) after they have attended school in the United States (not including Puerto Rico) for three (3) or more consecutive school years, except that if the local school district determines on a case-by-case individual basis, that a student has not yet reached a level of English language proficiency that will allow valid and reliable information to be obtained, even with testing accommodations, in which case individual waivers will be allowed for up to two additional consecutive years.

(C) The achievement of ELL students in content areas other than reading and language arts shall be

assessed in a valid and reliable manner, with acceptable accommodations as necessary to be determined by the local school district. These assessments will include the state achievement tests administered with accommodations as necessary and, to the extent practicable, assessments provided by the local school district in the language and form most likely to yield accurate data on what such students know and can do in these content areas and will continue until such students have achieved English language proficiency as determined under paragraph (A).

(b) On an annual basis, school superintendents or their designees shall provide a copy of the State Board of Education Rules, OAC 210:10-13, for all school personnel responsible for receipt, inventory, distribution, or return of tests documents, and/or for administration of tests within the Oklahoma School Testing Program.

(c) Districts may request special reports beyond those provided by state contract with the testing company at their own cost (i.e., individual student records on CD or disk, District Title I Report, District Alpha Order Report, etc.).

(d) Test results of all students not enrolled in schools in the district for a full academic year will be disaggregated and will not be used to determine the progress of the district.

210:10-13-4. Test security and validity

(a) School administrators or their designees shall maintain security on tests administered under the auspices of the Oklahoma School Testing Program through following the procedures listed below:

(1) School superintendents shall designate both district and building test coordinators before October 1 of each school year. Names and telephone numbers of district test coordinators shall be recorded on the OSTP Questionnaire conducted in the fall semester of each school year. This questionnaire is the order form for the large print and Braille test forms.

(2) The State Department of Education shall provide student/parent pretest information materials to schools for designated grade levels before testing.

(3) The State Department of Education shall require the contracting test publisher to place an embargo on the sale, sampling, and/or distribution of test materials utilized in the OSTP to any person or organization in Oklahoma (other than the official distribution of such materials purchased for the OSTP by the State Department of Education). This embargo is to be enforced from the first day of contract with the State Department of Education throughout use of this test for the OSTP and until the Department has given notice that the test series is no longer going to be used in the OSTP. The State Department of Education may enter into a Memorandum of Understanding with publicly funded schools to meet the requirements of federal programs. Violation of this agreement by a contracting test publisher can result in automatic and immediate forfeiture of the contract and reimbursement to the State Department of Education (by the contracting

company) of any funds expended in the conduct of the OSTP.

(4) No person nor organization--either private or public--shall obtain copies of any test materials utilized in the OSTP other than through the official distribution of test materials to public schools immediately prior to administration of the annual OSTP. Any person or organization attempting to order such materials from the contracting test publisher (or from other scoring companies handling OSTP or "off-grade" scoring and reporting) shall be reported by the contractor to the State Superintendent of Public Instruction.

(5) All student test materials (i.e., test booklets, prompts for writing assessment, and answer documents) shall be bound by the test publisher in packages of designated lot sizes. Test booklets shall be individually sealed prohibiting them from being opened. Seals shall remain intact until tests are distributed to students at the beginning of the test administration session. Each test booklet seal shall be broken only by the student who is administered the test except where special education or Section 504 accommodations allow the opening of the test by someone other than the student. Unused tests are to remain sealed.

(6) All test materials shall be inventoried upon receipt from the test publisher/contractor. Any discrepancies representing shortages in the quantity of materials supplied and the quantity needed for tests administered shall be reported immediately to the contracting company by the district test coordinator. Immediately upon receipt and inventory of materials, all tests, and other materials shall be locked in a secure place by the district test coordinator or school administrator. The site level distribution of test documents and materials may occur beginning one school day prior to testing. Exceptions to the test materials distribution time limit needed by the largest districts in the state shall be registered with and approved by the Student Assessment Section of the State Department of Education at least six weeks prior to the first designated testing window of each year. During the days in which tests are being administered in each school district, all test administrators are responsible for locking all test materials in a secure place when the tests are not being utilized in the official test administration with students. This includes the time period between completion of the test administration and delivery of the answer documents and other test materials to the district test coordinator. Further, the building test coordinator is responsible for ensuring that materials are properly locked in a secure place at the times specified above. Test booklets are not to leave school buildings at any time (i.e., students' test booklets are not to be taken home by an employee or the community member/test monitor before, during, or after test administration has been completed).

(7) An accounting is to be conducted on all test booklets. Unused test booklets are to remain in "shrink-wrap" (or otherwise packaged) when possible. All unused tests are to be returned to the test publisher. Failure to return test booklets to the appropriate companies (1) will result

in a school or district being reported to the State Superintendent and (2) may result in invalidation of the school's and/or district's scores.

(8) The contracting test publisher shall print electronically read identification codes on all documents containing secured test items prior to distribution of these materials to the public schools. Within all test program components of the OSTP, the contracting test publisher shall record the specific series of numbers (represented by the "bar codes") assigned to each school district and building site within a district. Inventory lists of test document bar codes by school site shall be provided for each district test coordinator.

(9) On the first available school day following the test administration in each school district, the district test coordinator shall ship all answer documents and specified identification forms to the designated scoring/reporting company and all other test materials to the contracting test publisher. in accordance with the schedule for return of materials provided in the Test Preparation Manual. If a district fails to return materials and answer documents in a timely fashion, the district may be penalized with additional costs. If a district fails to complete or incorrectly complete answer documents and/or demographic pages or other required testing-related materials, the district may be penalized with additional costs.

(10) The contracting test publisher shall submit an inventory of test materials to the State Department of Education each year. This inventory shall document the quantity of materials distributed to each school district and received from each school district--recorded by school site as indicated by the numbers represented by the "bar codes" printed on test materials. Quantities of writing assessment materials distributed to and retrieved from schools will be reported to the State Department of Education by the contracting test publisher.

(11) School superintendents from whom incomplete quantities of materials have been received shall be notified of this discrepancy and shall be provided a date by which the remaining materials must be returned to the test publisher. The test publisher shall notify the Department of Education of all school districts from which test materials have not been received after this date. Names of these school districts shall be reported to the State Superintendent.

(12) Reproduction in any form of any copyrighted test materials--including test documents, teachers' test administration manuals, and student pretest materials--is strictly prohibited. Photocopying of these materials constitutes a violation of federal copyright laws. To ensure that all school employees and community members are aware of this regulation and the laws in support of same, the district or building test coordinator shall post a sign to this effect over each copy machine. The Federal Copyright Law--as it applies to the Writing Assessment Component of the OSTP--prohibits the photocopying of any part of the student Test Booklet. This includes the lined writing pages, the writing prompt, and the student's written response.

Emergency Adoptions

This portion of the set of test documents is considered protected under the copyright guidelines [as is the writing prompt].

(13) Every test administered within the OSTP shall be administered by an education-certified professional person employed by the school district.

(14) No person shall teach test items to students, change students' answers, or in any manner provide answers to test questions for students before, during, or after test administration has been completed. Violation of this regulation may result in revocation of the person's teaching, counseling, administrative, and/or other certificate(s).

(15) All of the following actions are prohibited in that such actions represent violations of test security:

(A) Using secured test items as instructional tools or for student "practice"--either verbatim as written or in reworded form. Note: Secured test items are those provided to measure student knowledge and/or skills on OSTP tests. Said items are to be differentiated from sample test items that are provided at the beginning of each subtest and used, according to official test administration procedures, solely for the purpose of understanding directions and marking answers.

(B) Reading secured test items orally to students at any time before, after, or during test administration unless it is an IEP, ~~or~~ Section 504, or ELL accommodation, in which case an affidavit shall be signed, prior to reading items, by the test administrator/reader stating they shall not reveal any test items, writing prompts, or other secured information to any person.

(C) Deviating from any instruction provided in the official test administration manual.

(D) Allowing students to view and/or read the writing assessment prompts before test administration or discussing or exposing the theme or topic of the prompt.

(E) Providing answers to secured test items. This includes provision of cues, clues, hints, and/or actual answers in any form--written, printed, verbal (oral), or nonverbal. In regard to the writing assessment component of the OSTP, prohibited actions include the provision of "hints" or any form of clues in regard to the manner in which students respond to the prompt (e.g., "brainstorming" about the topic of the prompt; offering suggestions regarding how to respond; assisting the student or class in organizing the response; and all other such deviations from the printed instructions for administering the test).

(F) Changing students' responses to secured test items and/or influencing or encouraging students to change their answers to test items at any time.

(16) Test Security Forms provided by the State Department of Education's test contractor(s) shall be distributed by the district test coordinator with test materials to the persons designated on each form.

(A) OSTP Test Security Forms shall be provided for the following:

(i) Form 1: Superintendent and District Test Coordinator

(ii) Form 2: Building Principal and Building Test Coordinator

(iii) Form 3: Test Administrators and Test Monitors.

(B) After completing the test administration, these forms shall be signed by the designated persons and returned to the district test coordinator. The district test coordinator shall return all signed forms to the respective scoring company. Failure to sign and return the appropriate forms may result in:

(i) a school or district being reported to the State Superintendent; and

(ii) invalidation of a school's and/or district's test scores.

(17) The contracting test companies shall provide the State Department of Education the signed OSTP Test Security Forms or a report of names of educators who signed SDE/OSTP Test Security Forms and an accounting of the number of tests and manuals:

(A) distributed to, and

(B) returned from each school district.

(18) All test administration sessions shall be conducted according to the standardized procedures described in the test administrators' manuals. This includes reading the directions to students verbatim; timing each subtest according to the time delineated in the official administration manual; refraining from allowing students to read test items before test timing begins and/or beyond the completion of time specified for each test; and assuring that only the materials designated for student test use are on the student's desk during test sessions. Any violation of security provisions in Section 210:10-13-4 constitutes invalidation of the test and test results. Such violations shall be reported to the State Superintendent and may result in a school's and/or school district's test scores being declared as invalid.

(19) All test administration sessions shall be monitored by an adult other than the test administrator. All test monitors shall be approved by the superintendent or school principal. Superintendents and principals may designate school employees or noncertified members of the community to serve as test monitors. All test administration procedures including time specifications, State Board of Education Rules 210:10-13, and the Instructions for Test Monitors shall be distributed to test monitor(s) before test administration.

(b) School administrators or their designee(s) shall assure that all test administration procedures replicate standardized testing conditions to preserve test validity. Such procedures are stated in the manuals for administering the test.

210:10-13-6. Test inservice

Each district shall send a District Test Coordinator (DTC) and all building coordinators to the Oklahoma School Testing Program ~~Pretest Test Preparation~~ Pretest Test Preparation Inservice sessions. In addition, the District Test Coordinator ~~must~~ should attend the

~~Posttest Test Interpretation~~ Inservice sessions provided by the State Department of Education. School representatives attending such ~~Pretest Test Preparation~~ and/or ~~Posttest Test Interpretation~~ sessions shall report to the school administration after the inservice sessions, providing all inservice materials and information gained. School principals shall assure that every OSTP test administrator is provided a copy of the State Board of Education Rules OAC 210:10-13.

210:10-13-7. Return of documentation to testing company; completion of ~~Pretest Test Preparation Enrollment Survey~~

- (a) Answer ~~demographic~~ documents from ALL students ~~tested/enrolled~~ shall be returned to the respective scoring services after completion of the test administration.
- (b) School administrators or their designee(s) shall complete and return the Oklahoma School Testing Program ~~Pretest Test Preparation Enrollment Survey~~ as designated in the survey instructions ~~on or before the deadline for return.~~
- ~~(c) On a form provided by the testing company, the superintendent or designee shall record for each grade level tested the current total student enrollment, number of students tested, number of regular and alternative students tested, number of IEP students tested, and number of LEP students exempted.~~

210:10-13-14. Policy for working with schools identified as "high challenge"

- (a) **Identification and notification of "high challenge" schools.** The State Department of Education shall identify targeted schools and notify school superintendents of this status by August 15. Results of this process will be presented to the State Board of Education.
- (b) **Required attendance at a meeting for administrators of "high challenge" and "low-performing" school sites.** Administrators of schools identified as "high challenge" will be required to attend a meeting in September. The purpose of this meeting is threefold:
 - (1) To provide information regarding the local development and implementation of school improvement plans;
 - (2) To assist local efforts to document school improvement to meet the mandates issued by the State Board of Education; and
 - (3) To inform local administrators of the evaluation process to be used.
- (c) **Required written progress reports.** Personnel in each site identified as "high challenge" will be required to submit to the Department a plan for school improvement by November 1 and a written progress report by April 15. These reports shall describe the action taken to achieve school improvement and shall document any results which indicate progress toward meeting improvement goals and objectives.
- (d) **Monitoring the progress accomplished by "high challenge" schools.** The Department of Education shall monitor the progress being accomplished by the targeted schools. On-site visits to all schools will be conducted during the fall

or winter to determine the following in regard to each school's Plan for School Improvement"

- (1) the degree to which school improvement plans are being implemented
- (2) the needs for additional resources
- (3) the progress made by schools.
- (e) **Conducting an on-site evaluation.** Upon receipt of Oklahoma School Testing Program results, an on-site evaluation visit will be conducted to determine the progress made by local school personnel. Each evaluation team shall be individualized and may include staff from the Student Assessment, Research and Planning, Accreditation, Curriculum, or other sections based upon need at each site. During this evaluation, such items as academic achievement progress and success levels attained along locally-determined indicators will be examined. Results of this visit will yield recommendations as to the disposition of each school for the coming year, based on the following guidelines:
 - (1) The first such on-site evaluation will accomplish the establishment of recommendations and timelines to allow for further specification of the school's Plan for School Improvement and additional progress to be achieved by the local faculty.
 - (2) During the second annual on-site evaluation, more stringent recommendations such as those listed in 70 O.S. § 1210.541 will be made if the Evaluation Team determines that insufficient progress has taken place.
- ~~(f) **Reporting to the State Board of Education and the Oklahoma Legislature.** By November 1 each year, the State Department of Education personnel shall report to the State Board of Education and to the Oklahoma Legislature a list of the previous year's "high challenge" schools, their respective student average test scores, and recommendations for improvement or disposition. Recommendations included in this report shall be developed through the collaborative efforts of local school personnel and the State Department of Education. Further, the State Department of Education shall report on progress of formerly identified "high challenge" schools each year. This progress report will document the findings of the on-site evaluation and will include recommendations for further assistance or action to be taken by the Department and/or the local school.~~

[OAR Docket #02-1442; filed 11-7-02]
(format accepted 11-13-02)

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION**

[OAR Docket #02-1441]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. ~~Curriculum Standards~~ Priority Academic Student Skills [AMENDED]
Subchapter 5. Priority Academic Student Skills [REVOKED]

Emergency Adoptions

AUTHORITY:

70 O.S. § 3-104, State Board of Education

DATES:**Adoption:**

August 22, 2002

Approved by Governor:

October 10, 2002

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2003 unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The rule is of compelling public interest because rule changes must comply with legislation, 70 O.S. § 11-103.6(a), to provide clear academic curriculum standards to ensure all students are prepared for employment and/or postsecondary education.

ANALYSIS:

The need for the changes to rules are set forth in 70 O.S. § 11-103.6(a), which states the State Board of Education must review the *Priority Academic Student Skills* (PASS), Oklahoma's core curriculum, every three (3) years. The rule changes will add clarity and detail to the PASS and will also align with current national curriculum standards.

CONTACT PERSON:

Valerie Payne, 405-521-3308

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE STATE DEPARTMENT OF EDUCATION, 2500 NORTH LINCOLN BOULEVARD, ROOM 1-18, OKLAHOMA CITY, OKLAHOMA, AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 70 O.S., SECTION 144(B):

SUMMARY:

The amended rules for *Priority Academic Student Skills*, Oklahoma's core curriculum standards, were made to comply with current legislation and a full text of the rule may be obtained at the State Department of Education, Room 1-18, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, by interested parties.

[OAR Docket #02-1441; filed 11-7-02]
(format accepted 11-13-02)

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

[OAR Docket #02-1453]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 9. Long Term Care Facilities

317:30-5-131.2 [AMENDED]

(Reference APA WF # 02-14)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; House Bill 2218 of the 2nd Session of the 48th Legislature; 63 O.S. 2001, Section 1-1925.2

DATES:**Adoption:**

August 15, 2002

Approved by Governor:

September 26, 2002

Effective:

Immediately upon Governor's approval or September 1, 2002, whichever is later

Expiration:

Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that allow the Agency to comply with provisions of House Bill 2218 of the 2nd Session of the 48th Legislature which relate to the Quality of Care fund.

ANALYSIS:

Medical Providers-Fee for Service, Long Term Care specific, rules are revised to comply with provisions of House Bill 2218 of the 2nd Session of the 48th Legislature related to the Quality of Care fund. Revisions comply with these Legislative mandates by allowing: (1) the activity and social services staff who do not provide direct care to patients to be included in the direct-care-staff-to resident ratio until September 1, 2003; and (2) the Agency to assess the daily administrative penalty for incomplete or non-timely filed Quality of Care Reports only after written notification from the Agency has been received by the facility. Current rules allow the activity and social services staff who are not providing direct, hands-on care to be included in the direct-care-staff-to-resident ratio in any shift until September 1, 2002. House Bill 2218 allows those individuals to be included in the ratio for an additional year. Existing Quality of Care Report rules allow the Agency to assess an administrative penalty of \$150.00 per calendar day for each day a Medicaid facility's Quality of Care Report is late or incomplete. Provisions of the Legislation delays the Agency from imposing the initial administrative penalty until written notification from the Agency has been received by the facility. Rule revisions are needed in order to comply with provisions of House Bill 2218 of the 2nd Session of the 48th Legislature related to Quality of Care Reports.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR SEPTEMBER 1, 2002, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG TERM CARE FACILITIES

317:30-5-131.2. Quality of care fund requirements and report

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

(1) "Nursing Facility and Intermediate Care Facility for the mentally retarded" means any home,

establishment, or institution or any portion thereof, licensed by the State Department of Health as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes.

(2) **"Quality of Care Fee"** means the fee assessment created for the purpose of quality care enhancements pursuant to Section 2002 of Title 56 of the Oklahoma Statutes upon each nursing facility and intermediate care facility for the mentally retarded licensed in this State.

(3) **"Quality of Care Fund"** means a revolving fund established in the State Treasury pursuant to Section 2002 of Title 56 of the Oklahoma Statutes.

(4) **"Quality of Care Report"** means the monthly report developed by the Oklahoma Health Care Authority to document the staffing ratios, total patient gross receipts, total patient days, and minimum wage compliance for specified staff for each nursing facility and intermediate care facility for the mentally retarded licensed in the State.

(5) **"Staffing ratios"** means the minimum direct-care-staff-to-resident ratios pursuant to Section 1-1925.2 of Title 63 of the Oklahoma Statutes.

(6) **"Peak In-House Resident Count"** means the maximum number of in-house residents at any point in time during the applicable shift.

(7) **"Staff Hours worked by Shift"** means the number of hours worked during the applicable shift by direct-care staff.

(8) **"Direct-Care Staff"** means any nursing or therapy staff who provides direct, hands-on care to residents in a nursing facility and intermediate care facility for the mentally retarded pursuant to Section 1-1925.2 of Title 63 of the Oklahoma Statutes and as defined in subsection (c) of this Section.

(9) **"Major Fraction Thereof"** is defined as an additional threshold for direct-care-staff-to-resident ratios at which another direct-care staff person(s) is required due to the peak in-house resident count exceeding one-half of the minimum direct-care-staff-to-resident ratio pursuant to Section 1-1925.2 of Title 63 of the Oklahoma Statutes.

(10) **"Minimum wage"** means the amount paid per hour to specified staff pursuant to Section 5022.1 of Title 63 of the Oklahoma Statutes.

(11) **"Specified staff"** means the employee positions listed in the Oklahoma Statutes under Section 5022.1 of Title 63 and as defined in subsection (d) of this Section.

(12) **"Total Patient Days"** means the monthly patient days that are compensable for the current monthly Quality of Care Report.

(13) **"Total Gross Receipts"** means all cash received in the current Quality of Care Report month for services rendered to all residents in the facility. Receipts should include all Medicaid, Medicare, Private Pay and Insurance including receipts for items not in the normal per diem rate. Charitable contributions received by the nursing facility shall not be included.

(b) **Quality of care fund assessments.**

(1) The Oklahoma Health Care Authority (OHCA) was mandated by the Oklahoma Legislature to assess a monthly service fee to each Licensed Nursing Facility in

the State. The fee shall be assessed on a per patient day basis. The amount of the fee shall be uniform for each facility type. The fee shall be determined as six percent (6%) of the average total gross receipts divided by the total days for each facility type.

(2) In determination of the fee for the time period beginning October 1, 2000, a survey was mailed to each licensed nursing facility requesting calendar year 1999 Total Patient Days, Gross Revenues and Contractual Allowances and Discounts. This data shall be used to determine the amount of fee to be assessed for the period of 10-01-00 through 06-30-01. The fee shall be determined by totaling the "annualized" gross revenue and dividing by the "annualized" total days of service. "Annualized" means that the surveys received that do not cover the whole year of 1999 shall be divided by the total number of days that are covered and multiplied by 365.

(3) The fee for subsequent State Fiscal Years shall be determined by using the monthly gross receipts and census reports for the six (6) month period October 1 through March 31 of the prior fiscal year, annualizing those figures, and then determining the fee as defined above.

(4) Monthly reports of Gross Receipts and Census shall be included in the monthly Quality of Care Report. The data required includes, but is not limited to, the Total Gross Receipts and Total Patient Days for the current monthly report.

(5) The method of collection shall occur as follows:

(A) The Oklahoma Health Care Authority shall assess each facility monthly based on the reported patient days from the Quality of Care Report filed two (2) months prior to the month of the fee assessment billing. As defined in this subsection, the total assessment shall be the fee times the total days of service. The Oklahoma Health Care Authority shall notify the facility of its assessment by the end of the month of the Quality of Care Report submission date.

(B) Payment shall be due to the Oklahoma Health Care Authority by the 10th of the following month. Failure to pay the amount by the 10th or failure to have the payment mailing postmarked by the 8th shall result in a debt to the State of Oklahoma and shall be subject to penalties of ten percent (10%) of the amount and interest of one and one-quarter percent (1.25%) per month. The Quality of Care Fee shall be submitted no later than the 10th of the month. If the 10th falls upon a holiday or weekend (Saturday-Sunday), the fee shall be due by 5 p.m. (Central Standard Time) of the following business day (Monday-Friday).

(C) The monthly assessment including applicable penalties and interest shall be paid regardless of any appeals action requested by the facility. If a provider fails to pay the Authority the assessment within the time frames noted on the second invoice to the provider, the assessment, applicable penalty, and interest will be deducted from the facility's payment. Any change in payment amount resulting from an appeals decision will be adjusted in future payments.

Emergency Adoptions

Adjustments to prior months' reported amounts for gross receipts or patient days may be made by filing an amended part C of the Quality of Care Report.

(D) The Quality of Care fee assessments excluding penalties and interest are an allowable cost for Oklahoma Health Care Authority Cost Reporting purposes.

(E) The Quality of Care fund shall contain assessments collected excluding penalties and interest as described in this subsection and any interest attributable to investment of any money in the fund shall be deposited in a revolving fund established in the State Treasury. The funds will be used pursuant to Section 2002 of Title 56 of the Oklahoma Statutes.

(c) **Quality of care direct-care-staff-to resident-ratios.**

(1) Effective September 1, 2000, all nursing facilities and intermediate care facilities for the mentally retarded (ICFs/MR) subject to the Nursing Home Care Act, in addition to other state and federal staffing requirements, shall maintain the minimum direct-care-staff-to-resident ratios as cited in Section 1-1925.2 of Title 63 of the Oklahoma Statutes.

(2) For purposes of staff-to-resident ratios, direct-care staff are limited to the following employee positions:

- (A) Registered Nurse
- (B) Licensed Practical Nurse
- (C) Nurse Aide
- (D) Certified Medication Aide
- (E) Qualified Mental Retardation Professional (ICFs/MR only)
- (F) Physical Therapist
- (G) Occupational Therapist
- (H) Respiratory Therapist
- (I) Speech Therapist
- (J) Therapy Aide/Assistant
- (K) Social Services Director/Social Worker
- (L) Other Social Services Staff
- (M) Activities Director
- (N) Other Activities Staff
- (O) Combined Social Services/Activities

(3) Prior to September 1, ~~2002~~ 2003, activity and social services staff who are not providing direct, hands-on care may be included in the direct-care-staff-to-resident ratio in any shift. On and after September 1, ~~2002~~ 2003, such persons shall not be included in the direct-care-staff-to-resident ratio.

(4) In any shift when the direct-care-staff-to-resident ratio computation results in a major fraction thereof, direct-care staff shall be rounded to the next higher whole number.

(5) To document and report compliance with the provisions of this subsection, nursing facilities and intermediate care facilities for the mentally retarded shall submit the monthly Quality of Care Report pursuant to subsection (e) of this Section.

(d) **Quality of care minimum wage for specified staff.**

Effective November 1, 2000, all nursing facilities and private intermediate care facilities for the mentally retarded receiving

Medicaid payments, in addition to other federal and state regulations, shall pay specified staff not less than in the amount of ~~Six Dollars and Sixty-five Cents (\$6.65)~~ per hour.

(1) Employee positions included for purposes of minimum wage for specified staff are as follows:

- (A) Registered Nurse
- (B) Licensed Practical Nurse
- (C) Nurse Aide
- (D) Certified Medication Aide
- (E) Other Social Service Staff
- (F) Other Activities Staff
- (G) Combined Social Services/Activities
- (H) Other Dietary Staff
- (I) Housekeeping Supervisor and Staff
- (J) Maintenance Supervisor and Staff
- (K) Laundry Supervisor and Staff

(2) To document and report compliance with the provisions of this subsection, all nursing facilities and private intermediate care facilities for the mentally retarded receiving Medicaid payments shall submit the requested information pertaining to Minimum Wage Compliance on the Quality of Care Report monthly pursuant to subsection (e) of this Section.

(e) **Quality of care reports.** Effective September 1, 2000, all nursing facilities and intermediate care facilities for the mentally retarded shall submit a monthly report developed by the Oklahoma Health Care Authority, the Quality of Care Report, for the purposes of documenting the extent to which such facilities are compliant with the minimum direct-care-staff-to-resident ratios and the minimum wage requirements for specified staff.

(1) The monthly report must be signed by the preparer and by the Owner, authorized Corporate Officer or Administrator of the facility for verification and attestation that the reports were compiled in accordance with this section.

(2) The Owner or authorized Corporate Officer of the facility shall retain full accountability for the report's accuracy and completeness regardless of report submission method.

(3) Penalties for false statements or misrepresentation made by or on behalf of the provider are provided at 42 U.S.C. Section 1320a-7b which states, in part, "*Whoever... (2) at any time knowingly and willfully makes or causes to be made any false statement of a material fact for use in determining rights to such benefit or payment... shall (i) in the case of such statement, representation, concealment, failure, or conversion by any person in connection with furnishing (by that person) of items or services for which payment is or may be made under this title (42 U.S.C. §1320 et seq.), be guilty of a felony and upon conviction thereof fined not more than \$25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than \$10,000 or imprisoned for not more than one year, or both.*"

(4) The Quality of Care Report shall be submitted by 5 p.m. (CST) on the 15th of the following month. If the 15th falls upon a holiday or a weekend (Saturday-Sunday), the report shall be due by 5 p.m. (CST) of the following business day (Monday - Friday).

(5) The Quality of Care Report will be made available in an electronic version for uniform submission of the required data elements.

(6) Facilities shall submit the monthly report either through electronic mail to the Provider Compliance Audits Unit or send the monthly report in disk or paper format by certified mail. The submission date shall be determined by the date and time recorded through electronic mail or the postmark date and the date recorded on the certified mail receipt.

(7) Should a facility discover an error in its submitted report for the previous month only, the facility shall provide to the Provider Compliance Audits Unit written notification with adequate, objective and substantive documentation within five (5) business days following the submission deadline. Any documentation received after the five (5) business day period shall not be considered in determining compliance and for reporting purposes by the Oklahoma Health Care Authority.

(8) An initial administrative penalty of \$150.00 ~~per calendar day past the Quality of Care Report submission deadline~~ shall be imposed upon the facility for incomplete or ~~non-timely~~ non-timely filing of the Quality of Care Report. Additionally, a daily administrative penalty will begin upon the Authority notifying the facility in writing that the report was not complete or not timely submitted as required. The \$150.00 daily administrative penalty shall accrue for each calendar day after the date the notification is received. The penalties shall be deducted from the Medicaid facility's payment. For one hundred percent (100%) private pay facilities, the penalty amount(s) shall be included and collected in the fee assessment billings process. ~~The daily penalty shall be calculated based upon the time of day the report is submitted; therefore, \$150.00 shall be imposed for each calendar day when the completed report is not submitted by 5 p.m. (CST).~~ Imposed penalties for incomplete reports or non-timely filing shall not be considered for Oklahoma Health Care Authority Cost Reporting purposes.

(9) The Quality of Care Report shall include, but is not limited to, information pertaining to the necessary reporting requirements in order to determine the facility's compliance with subsections (b), (c) and (d) of this Section. Such reported information includes, but is not limited to: staffing ratios; peak in-house resident count; staff hours worked by shift; payroll information relevant to minimum wage; total patient days; and total gross receipts.

(10) Desk audits will be performed monthly on each facility to ascertain instances of non-compliance pursuant to subsections (b), (c) and (d) of this Section. Announced/unannounced on-site audits of reported information may also be performed.

(11) Direct-care-staff-to-resident information and on-site audit findings pursuant to subsection (c), will be reported to the Oklahoma State Department of Health for their review in order to determine "willful" non-compliance and assess penalties accordingly pursuant to Title 63 Section 1-1912 through Section 1-1917 of the Oklahoma Statutes. The Oklahoma State Department of Health shall inform the Oklahoma Health Care Authority of all final penalties as required in order to deduct from the Medicaid facility's payment. Imposed penalties shall not be considered for Oklahoma Health Care Authority Cost Reporting purposes.

(12) Pursuant to subsection (d), the monitoring of minimum wage compliance for specified staff by the Oklahoma Health Care Authority shall begin with the November monthly report that shall be submitted by 5 p.m. (CST) on December 15th, 2000. If a Medicaid provider is found non-compliant pursuant to subsection (d) based upon a desk audit and/or an on-site audit, for each hour paid to specified staff that does not meet the regulatory minimum wage of ~~Six Dollars and Sixty five cents (\$6.65)~~, the facility must reimburse the employee(s) retroactively to meet the regulatory wage for hours worked. Additionally, an administrative penalty of ~~Twenty five dollars (\$25.00)~~ shall be imposed for each non-compliant staff hour worked. For Medicaid facilities, a deduction shall be made to their payment. Imposed penalties for non-compliance with minimum wage requirements shall not be considered for Oklahoma Health Care Authority Cost Reporting purposes. Furthermore, ~~one hundred percent (100%)~~ private pay facilities and public intermediate care facilities for the mentally retarded shall not be required to provide minimum wage information on the Quality of Care Report.

(13) Long Term Care facility providers may appeal the administrative penalty described in subsection (b)(5)(B) and subsections (e) (8) and (e) (12).

*[OAR Docket #02-1453; filed 11-14-02]
(format accepted 11-19-02)*

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

[OAR Docket #02-1454]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Individual Providers and Specialties
Part 41. Family Support Services
317:30-5-412. [AMENDED]
(Reference APA WF # 02-18A)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 5006 of Title 63 of Oklahoma Statutes; Section 1415.1 of Title 10 of Oklahoma Statutes

Emergency Adoptions

DATES:

Adoption:

September 12, 2002

Approved by Governor:

October 8, 2002

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that an imminent peril to the preservation of the health, safety and welfare of the public exists which necessitates promulgation of emergency rules and requests emergency approval of rules to specify the necessary requirements for transportation services for individuals with developmental disabilities.

ANALYSIS:

Medical Providers-Fee for Service, Family Support Services specific, rules are revised to clarify transportation service availability in the Home and Community-Based Waivers for persons with developmental disabilities. Rules are being established to clarify conditions under which transportation services must be provided. New rules will distinguish among non-adapted transportation, adapted transportation, and public transportation. Revisions will provide guidelines for determining whether a person needs adapted transportation as well as establishing safer standards for transportation providers. Transportation services that are not covered will be specified. In addition, rules will establish procedures for review and authorization of higher amounts of transportation service. Rule revisions are needed in order to clarify transportation service availability for individuals who receive services through the DDSD Home and Community-Based Waivers.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 41. FAMILY SUPPORT SERVICES

317:30-5-412. Description of services

Family Support Services include the following:

(1) **Transportation services.** Transportation services are provided in accordance with OAC 317:40-5-103.

~~(A) **Minimum qualifications.** Transportation Service providers must have a valid and current Oklahoma Driver's License plus vehicle(s) must meet applicable local and state requirements for vehicle licensure, inspection, insurance and capacity.~~

~~(B) **Description of services.** Transportation services provide transportation to programs necessary to enhance community/living skills and integration. Services include, but are not limited to, transportation to and from medical appointments except as covered under the State Medicaid Plan, recreational~~

~~activities and other community activities as specified in the individual's habilitation plan. Services may be provided to eligible individuals age six and older. Transportation services may be provided in any community setting in which the recipient resides.~~

~~(C) **Coverage limitations.** Mileage costs for transportation provided to more than one client at the same time to the same location may only be claimed for one client.~~

~~(i) **Procedure Description:** Transportation Mileage; **Rate:** regular state mileage rate rounded down to the nearest whole cent; **Limitation:** \$5,000 each 12 months.~~

~~(ii) **Procedure Description:** Transportation Other; **Rate:** Public Rate; **Limitation:** As specified in IHP.~~

(2) **Adaptive equipment services.** Adaptive equipment (assistive technology) services are provided in accordance with OAC 317:40-5-100.

~~(A) **Minimum qualifications.** Adaptive equipment providers must meet all applicable state and local requirements for licensure and/or certification.~~

~~(B) **Description of services.** Adaptive equipment services provide for evaluation, limited rental, customization, maintenance and repair, and/or provision of specialized equipment for eligible individuals age six and older. Services are intended to enable individuals to perform daily living skills, socialization and/or work activities with reduced reliance upon others. Services are supplied in any community setting as specified in the individual's habilitation plan. Such equipment is limited to items which have no utility apart from the needs of the disabled recipient and is not otherwise available under Oklahoma's Title XIX State Plan.~~

~~(C) **Coverage limitations.** Limits are specified in each recipient's IHP.~~

(3) **Architectural modification.** Architectural modification services are provided in accordance with OAC 317:40-5-101.

~~(A) **Minimum qualifications.** Architectural modification providers must meet local and state requirements for building contractors. Such requirements will include those set forth by the State of Oklahoma through Building Officials and Code Administrators (BOCA) legislation which includes requirements for building, electrical, plumbing and mechanical inspections. In addition to occupancy requirements, construction must meet specifications set forth by American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI Standards).~~

~~(B) **Description of services.** Alterations to existing residence of eligible individuals six years of age and older. Services, as specified in the individual's IHP, are intended to enhance accessibility and safety of homes for individuals with mobility difficulties.~~

~~Such modifications are limited to items which have no utility apart from the needs of the disabled recipient.~~

~~(C) **Coverage limitations.** Limits are specified in each recipient's IHP.~~

(4) **Family training.**

(A) **Minimum qualifications.** Training providers must hold current licensure as a clinical social worker, psychologist, professional counselor, psychiatrist, registered nurse, nutritionist/dietitian, physical therapist, occupational therapist or speech therapist. Training may also be provided by other local or state agencies whose programs have been approved by the Developmental Disabilities Services Division (DDSD) Director of Training.

(B) **Description of services.** Family Training Services include instruction in skills and knowledge pertaining to the support and assistance of persons with developmental disabilities provided to individuals and natural, adoptive or foster families of eligible individuals age six and older. Services are intended to allow families to become more proficient in meeting the needs of eligible individuals. Services are provided in any setting in which the individual/family resides and/or the provider conducts business and may be provided in either group (2-15 persons) or individual formats.

(C) **Coverage limitations.** Payment rates and coverage limitations for family training are as follows:

(i) Description: Individual Family Training; Payment Rate: 95% of Billed Charges; Limitation: \$5,000 each 12 months.

(ii) Description: Group Family Training; Payment Rate: 95% of Billed Charges; Limitation: \$5,000 each 12 months.

(5) **Family counseling.**

(A) **Minimum qualifications.** Counseling providers must hold current licensure as a clinical social worker, psychologist or professional counselor.

(B) **Description of services.** Family Counseling Services include counseling in emotional and social issues provided to eligible individuals age six and older and their natural, adoptive or foster families. Services are intended to maximize individual's/family's emotional/social adjustment and well-being. Services are rendered in any setting in which the individual/family resides or the provider's office and may be provided in either group (six person maximum) or individual formats.

(C) **Coverage limitations.** Payment rates and coverage limitations for family counseling are as follows:

(i) Description: Individual Family Counseling; Unit: 15 minutes; Limitation: 400 units each 12 months.

(ii) Description: Group Family Counseling; Unit: 30 minutes; Limitation: 225 units each 12 months.

(6) **Specialized medical supplies.**

(A) **Minimum qualifications.** Specialized medical equipment providers must meet all applicable state and local requirements for licensure and/or certification.

(B) **Description of services.** Specialized medical supplies include supplies specified in the plan of care, which enable individuals to increase their abilities to perform activities of daily living. This service also includes the purchase of ancillary supplies not available under Oklahoma's Title XIX State Plan and ~~exclude~~ excludes those items which are not of direct medical and remedial benefit to the individual. All items shall meet applicable standards of manufacture, design and installation. Supplies include, but are not limited to:

- (i) prescriptions in excess of Medicaid limitations;
- (ii) adult briefs;
- (iii) nutritional supplements;
- (iv) supplies needed for tracheotomy/respirator/ventilator care; and
- (v) supplies for decubitus care.

(C) **Coverage limitations.** Specialized medical services are billed using the appropriate HCPC Code. Individual limits are specified in each recipient's IHP. All services require prior authorization.

*[OAR Docket #02-1454; filed 11-14-02]
(format accepted 11-20-02)*

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 40. DEVELOPMENTAL
DISABILITIES SERVICES**

[OAR Docket #02-1455]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Client Services
Part 9. Service Provisions
317:40-5-103. [NEW]
(Reference APA WF # 02-18B)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 5006 of Title 63 of Oklahoma Statutes; Section 1415.1 of Title 10 of Oklahoma Statutes

DATES:

Adoption:
September 12, 2002

Approved by Governor:
October 8, 2002

Effective:
Immediately upon Governor's approval

Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

Emergency Adoptions

FINDING OF EMERGENCY:

The Agency finds that an imminent peril to the preservation of the health, safety and welfare of the public exists which necessitates promulgation of emergency rules and requests emergency approval of rules to specify the necessary requirements for transportation services for individuals with developmental disabilities.

ANALYSIS:

Developmental Disabilities Services rules are revised to clarify transportation service availability in the Home and Community-Based Waivers for persons with developmental disabilities. Rules are being established to clarify conditions under which transportation services must be provided. New rules will distinguish among non-adapted transportation, adapted transportation, and public transportation. Revisions will provide guidelines for determining whether a person needs adapted transportation as well as establishing safer standards for transportation providers. Transportation services that are not covered will be specified. In addition, rules will establish procedures for review and authorization of higher amounts of transportation service. Rule revisions are needed in order to clarify transportation service availability for individuals who receive services through the DDS Home and Community-Based Waivers.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

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

SUBCHAPTER 5. CLIENT SERVICES

PART 9. SERVICE PROVISIONS

317:40-5-103. Transportation

(a) General Information. Transportation services include acquisition of, and payment for the use of, adapted, non-adapted, and public transportation.

(1) Transportation is provided to promote inclusion in the community, access to programs and services, and participation in activities to enhance community living skills.

(2) Services include, but are not limited to, transportation to and from medical appointments, work or employment services, recreational activities, and other community activities within the number of miles authorized in the Plan of Care.

(A) Adapted or non-adapted transportation is provided for each eligible person; or

(B) Public transportation is provided up to a maximum of \$5,000 per Plan of Care year. For the purposes of this Section, public transportation is defined as:

(i) public transportation services, such as an ambulance when medically necessary, a bus, or a taxi; or

(ii) a transportation program operated by the service recipient's employment services or day services provider.

(3) Services are provided to eligible individuals in accordance with the person's Plan of Care.

(4) Transportation services may be provided when there are insufficient supports to provide transportation.

(5) Authorization of Transportation Services is based on:

(A) Team consideration, in accordance with OAC 340:100-5-52, of the unique needs of the person and the most cost effective type of transportation services that meets the individual's need, in accordance with subsection (d) of this Section;

(B) the person's participation in Waiver services; and

(C) the scope of the transportation program as explained in this section.

(b) Standards for transportation providers. All drivers must have a valid and current Oklahoma drivers license and vehicle(s) must meet applicable local and state requirements for vehicle licensure, inspection, insurance and capacity.

(1) The provider must ensure that any vehicle used to transport individuals:

(A) meets the needs of the service recipient;

(B) is maintained in a safe condition;

(C) has a current vehicle tag; and

(D) is operated in accordance with local, state, and federal law, regulation, and ordinance.

(2) The provider maintains liability insurance in an amount sufficient to pay for injuries or loss to persons or property occasioned by negligence or malfeasance by the agency, its agents, or employees.

(3) The transportation provider must adequately maintain equipment installed to provide supports for individuals.

(4) Providers must maintain documentation fully disclosing the extent of services furnished that specifies:

(A) the service date;

(B) the odometer mileage reading;

(C) the name of the service recipient transported;

(D) the purpose of the trip; and

(E) the starting point and destination.

(c) Services not covered. Services that cannot be claimed as transportation services include:

(1) services not approved by the Team;

(2) services not authorized by the Plan of Care;

(3) trips that have no specified purpose or destination;

(4) trips for provider or staff convenience;

(5) transportation provided by the person receiving services or a family member of the person receiving services;

(A) The Team may authorize a family member to provide:

(i) transportation to the service recipient's work or employment services; and

(ii) transportation provided in accordance with OAC 317:40-5-5 or OAC 317:40-5-55.

(B) For the purposes of this Section, a family member is defined as a:

(i) spouse;

(ii) mother or father of a minor child; or

- (iii) mother, father, sister, brother, or child, including those of in-law or step relationship, living in the same household;
- (6) trips when the individual receiving services is not in the vehicle;
- (7) transportation claimed for more than one service recipient per vehicle at the same time or for the same miles, except public transportation;
- (8) transportation outside the State of Oklahoma unless:
 - (A) the transportation is provided to access the nearest available medical or therapeutic service; or
 - (B) advance written approval is given by the DDS Area Manager or designee;
- (9) services which are mandated to be provided by the public schools pursuant to the Individuals with Disabilities Education Act;
- (10) transportation that occurs during the performance of the service recipient's paid employment, even if the employer is a contract provider.
- (d) **Assessment and Team process.** At least annually, the Team addresses the person's transportation needs. The Team determines the most appropriate means of transportation based on the:
 - (1) present needs of the person receiving services;
 - (2) person's ability to access public transportation services; and
 - (3) the availability of other transportation resources including family, neighbors, friends, and community agencies.
- (e) **Adapted Transportation.** Adapted transportation provides transportation in modified vehicles or vehicles specifically procured to meet medical or behavioral needs of the service recipient which cannot be met with the use of a standard passenger vehicle. Vehicle modifications that may be needed include, but are not limited to, wheelchair safe travel systems, wheelchair lifts, raised roofs and doors, and exterior mounted wheelchair or scooter carriers.
 - (1) The Team determines if the person needs adapted transportation according to:
 - (A) the person's need for physical support when sitting;
 - (B) the person's need for physical assistance during transfers from one surface to another;
 - (C) the portability of the individual's wheelchair;
 - (D) associated health problems the individual may have;
 - (E) behavioral issues related to vehicle travel; and
 - (F) the needs of the individual only. The needs of other individuals living in the same household are considered separately.
 - (2) The transportation provider and the equipment vendor ensure that requirements of the Americans with Disabilities Act are met when Team-recommended vehicle modifications are installed.
- (3) The transportation provider ensures that all staff assisting with transportation have been trained according to the requirements specified by the Team and the equipment manufacturer.
- (4) The adapted transportation rate is not paid when a vehicle has been adapted with funds from the HCBWS program.
- (f) **Authorization of transportation services.** The authorization limitations given in this subsection include the total of all transportation units on the Plan of Care, not just the units authorized for the residential setting identified.
 - (1) The Case Manager may include in the Plan of Care for a person receiving:
 - (A) daily living supports, as defined in OAC 317:40-5-150, up to 12,000 units of adapted or non-adapted transportation per Plan of Care year;
 - (B) specialized foster care, as defined in OAC 317:40-5-50, no transportation units, since 30 miles per day are included in the specialized foster care rate;
 - (C) group home services, as defined in OAC 340:100-6-1, up to 12,000 units of adapted or non-adapted transportation per Plan of Care year;
 - (D) agency companion services, as defined in OAC 317:40-5-3, up to 12,000 units of adapted or non-adapted transportation per Plan of Care year;
 - (E) services in his or her own home or his or her family's home, up to 12,000 units of adapted or non-adapted transportation per Plan of Care year; or
 - (F) supported living services, the services specified in OAC 340:100-5-22.4.
 - (2) The Case Management Supervisor may include in the Plan of Care up to 14,400 miles per Plan of Care year for people receiving daily living supports, agency companion services, or services in the person's own home or family home.
 - (3) The DDS Service Authorization Unit may approve written requests for:
 - (A) transportation services in excess of 14,400 miles per Plan of Care year in extenuating situations when person-centered planning has identified specific needs which require additional transportation for a limited period; or
 - (B) any combination of public transportation services with adapted or non-adapted transportation.

[OAR Docket #02-1455; filed 11-14-02]
(format accepted 11-19-02)

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

1:2001-19I.

AMENDED EXECUTIVE ORDER 2001-19 OF NOVEMBER 13, 2002

To the Honorable Members of the House of Representatives and the Honorable Members of the State Senate of Oklahoma:

I, Frank Keating, Governor of the State of Oklahoma, pursuant to the authority vested in me by the provisions of Section 7 of Article VI of the Oklahoma Constitution, hereby amend Executive Order 2001-19 which convoked the First Extraordinary Session of the Forty-eighth Oklahoma Legislature to convene at the State Capitol on May 21, 2001. The following subjects were recommended for consideration:

1. Legislation referring to a vote of the people the restructuring of Oklahoma's tax system including the repeal of the personal income tax and the sales tax on groceries and making the State a "pick up state" for estate tax purposes. Revenue enhancement measures to replace all or a significant portion of the revenues to the State which would be lost or reduced would also be considered and included.

2. Legislation to address the required reapportionment of Oklahoma's Congressional districts based on the 2000 census.

On June 8, 2001 I further amended Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol at any time after June 8, 2001, as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following additional subject:

3. Legislation to exempt the recently approved federal income tax rebate to be received this summer from the state income tax.

On August 30, 2001 I further amended Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol at any time after August 30, 2001, as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following additional subjects:

4. Legislation to extend the 50% unemployment insurance tax rate cut for two years until December 31, 2003

5. Legislation to designate state matching funds for the federal Welfare-to-Work block grant, the money for which is already available in the budget of the Oklahoma Employment Security Commission.

6. Legislation to exempt from state and federal income taxation after January 1, 2002 distributions from Oklahoma College Savings Program accounts.

7. Legislation to address election laws in light of the pending resignation of Congressman Steve Largent and resulting vacancy in his congressional seat, as was done in the case of early resignation of then Senator David Boren in 26 O.S. Section 12-101(C).

I hereby further amend Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol at any time after September 7, 2001, as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following subject in addition to those listed above:

8. Legislation to reform the Workers Compensation system including Multiple Injury Trust Fund.

9. Legislation to amend 21 O.S. §1541.1 to conform with Senate Bill 397 which was passed during the First Regular Session of the Forty-Eighth Legislature.

I hereby further amend Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol at any time after September 7, 2001, as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following subject in addition to those listed above.

10. Legislation to amend 47 O.S. Section 6-301 to include military and intelligence agencies.

I hereby further amend Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol at any time after September 7, 2001, as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following subject in addition to those listed above:

11. Legislation relating to tax credits to public service corporations providing power to industrial customers.

Executive Orders

I hereby further amend Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol at any time after October 10, 2001 as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following subject in addition to those listed above:

12. Legislation to provide for a sales tax holiday.

I hereby further amend Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol at any time after October 22, 2001, as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following subject in addition to those listed above:

13. Legislation to consider tort claim coverage for physicians engaged in the practice of medicine while employed by the State.

I hereby further amend Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following subject in addition to those listed above:

14. Legislation to bring HB 1570, passed during the First Regular Session of the Forty-Eighth Legislature, into compliance with the Oklahoma Constitution. This action is taken in response to the recent Oklahoma Supreme Court ruling declaring said bill unconstitutional.

I hereby further amend Executive Order 2001-19 dated May 21, 2001, to reconvene at the State Capitol as called by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, for consideration of the following subject in addition to those listed above:

15. In the interest of public safety, legislation to appropriate funds available from 2002 General Revenue Cash Fund to the Department of Corrections to delay the implementation of the Department's furlough plan.

Copies of this Executive Order shall be distributed to every member of the Oklahoma House of Representatives, every member of the Oklahoma State Senate, the Clerk of the House of Representatives, the Secretary of the Senate, and the Director of the Office of State Finance.

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 13th day of November, 2002.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Frank Keating

ATTEST:
Kay Dudley
Secretary of State

[OAR Docket #02-1458; filed 11-13-02]

1:2002-13.

EXECUTIVE ORDER 2002-13

I, Frank Keating, Governor of the State of Oklahoma, pursuant to the authority vested in me by Article VI of the Oklahoma Constitution, do hereby designate the Interim Oklahoma Homeland Security Director, as created in Senate Joint Resolution 42, to be the administrator of the Oklahoma Homeland Security Advisory System.

President George W. Bush established the National Homeland Security Advisory System in March 2002 through Presidential Directive 3. The National Homeland Security Advisory System is binding on the federal executive branch and suggested, although voluntary, to other levels of government and the private sector. Under the federal system, there are five Threat Conditions and the assignment of the Threat Condition is based upon risk reflecting probability and gravity. At each Threat Condition, federal departments and agencies implement a corresponding set of Protective Measures to further reduce vulnerability or increase response capability.

I hereby direct the Interim Oklahoma Homeland Security Director to adopt a "Homeland Security Advisory System" modeled after the federal system. It shall be binding upon the state government of Oklahoma and voluntary for local levels of government and the private sector. The state system shall mirror the five Threat Conditions established by the federal government: Low (Green), Guarded (Blue), Elevated (Yellow), High (Orange), and Severe (Red). Administering the Oklahoma Homeland Security Advisory System shall include, but not be limited to developing and disseminating terrorism advisories and notifications, working with individual state agencies to develop specific protective measures, assisting local governments to develop notification systems and protective measures, and assigning threat conditions.

This Executive Order shall be forwarded to the Interim Oklahoma Homeland Security Director 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, this 15th day of November, 2002.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Frank Keating

ATTEST:
Kay Dudley
Secretary of State

[OAR Docket #02-1461; filed 11-15-02]
