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State Board of OSTEOPATHIC Examiners	510	TEACHERS' Retirement System	715
PARDON and Parole Board	515	State TEXTBOOK Committee	720
Oklahoma PEANUT Commission	520	Oklahoma TOURISM and Recreation Department	725
Oklahoma State PENSION Commission	525	Department of TRANSPORTATION	730
State Board of Examiners of PERFUSIONISTS	527	Oklahoma TRANSPORTATION Authority	731
Office of PERSONNEL Management	530	State TREASURER	735
Oklahoma State Board of PHARMACY	535	Board of Regents of TULSA Community College	740
PHYSICIAN Manpower Training Commission	540	Oklahoma TURNPIKE Authority (<i>name changed - see Title 731</i>)	745
Board of PODIATRIC Medical Examiners	545	Board of Trustees for the UNIVERSITY Center at Tulsa	750
Oklahoma POLICE Pension and Retirement System	550	UNIVERSITY Hospitals Authority	752
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	Board of Regents of the UNIVERSITY of Oklahoma	755
POLYGRAPH Examiners Board	560	Board of Regents of the UNIVERSITY of Science and Arts of Oklahoma	760
Oklahoma Board of PRIVATE Vocational Schools	565	Oklahoma USED Motor Vehicle and Parts Commission	765
State Board for PROPERTY and Casualty Rates	570	Oklahoma Department of VETERANS Affairs	770
State Board of Examiners of PSYCHOLOGISTS	575	Board of VETERINARY Medical Examiners	775
Department of CENTRAL Services (<i>Formerly: Office of PUBLIC Affairs</i>)	580	Oklahoma Department of CAREER and Technology Education (<i>Formerly: Oklahoma Department of VOCATIONAL and Technical Education</i>)	780
PUBLIC Employees Relations Board	585	Oklahoma WATER Resources Board	785
Oklahoma PUBLIC Employees Retirement System	590	Board of Regents of WESTERN Oklahoma State College	790
Department of PUBLIC Safety	595	Oklahoma WHEAT Commission	795
REAL Estate Appraiser Board	600	Department of WILDLIFE Conservation	800
Oklahoma REAL Estate Commission	605	WILL Rogers and J.M. Davis Memorials Commission	805
Board of Regents of REDLANDS Community College	607		
State REGENTS for Higher Education	610		
State Department of REHABILITATION Services	612		
Board of Regents of ROGERS State College	615		

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 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #03-326]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Regulation of Practice

435:20-5-9. Standards of Ethics and Professional Conduct

[NEW]

SUMMARY:

This new rule defines the standards of ethics and professional conduct for licensed physical therapists and physical therapist assistants. The American Physical Therapy Association and the Oklahoma Respiratory Care Practice Act were used as sources in the development of these standards.

AUTHORITY:

TITLE 59 O.S., Section 887.5, State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from April 1, 2003 to May 5, 2003. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on May 8, 2003, 9:00 a.m. at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than May 5, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after April 1, 2003 at the office of the Board, 5104 North Francis, Suite C, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Jan Ewing, Deputy Director (405) 848-6841, ext. 104

[OAR Docket #03-326; filed 2-26-03]

Submissions for Review

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

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

TITLE 10. OKLAHOMA ACCOUNTANCY BOARD CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #03-361]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
10:15-1-1. Purpose [AMENDED]
10:15-1-2. Definitions [AMENDED]
Subchapter 3. Requirements to Practice Public Accountancy
10:15-3-1. Who may practice public accountancy [AMENDED]
10:15-3-2. Certificate as a certified public accountant [AMENDED]
10:15-3-3. License as a public accountant [AMENDED]
10:15-3-4. Permits to practice [AMENDED]
Subchapter 7. Application to Take an Examination
10:15-7-2. ~~Applicant experience equivalency~~ Educational requirements [AMENDED]
Subchapter 20. Internet Practice Requirements [NEW]
10:15-20-1. Requirements regarding practice or solicitation of an engagement via electronic means [NEW]
Subchapter 21. Reciprocity
10:15-21-1. Application for certificate or license [AMENDED]
10:15-21-3. Evaluation of qualifications [AMENDED]
Subchapter 22. Substantial Equivalency [NEW]
10:15-22-1. Notification [NEW]
Subchapter 23. Registration
10:15-23-1. Registration of individuals [AMENDED]
10:15-23-2. Registration of firms [AMENDED]
Subchapter 25. Permits
10:15-25-2. Date of issue [AMENDED]
10:15-25-3. Individual permit [AMENDED]
10:15-25-4. Firm permits [AMENDED]
10:15-25-5. Transitional period for individuals entering and re-entering public practice [AMENDED]
Subchapter 27. Fees
10:15-27-1. Initial application to take CPA examination [AMENDED]
10:15-27-2. Initial application to take PA examination [AMENDED]
10:15-27-3. Reexamination [AMENDED]
10:15-27-4. Examination processing fee [AMENDED]

10:15-27-6. ~~Proctoring~~ Out of State Candidates [AMENDED]
10:15-27-7. Reciprocal application [REVOKED]
10:15-27-7.1. Substantial equivalence [NEW]
10:15-27-8. Registration [AMENDED]
10:15-27-9. Permit [AMENDED]
10:15-27-11. Duplicate certificate or license [AMENDED]
Subchapter 29. Continuing Professional Education
10:15-29-1.1. Burden of proof [AMENDED]
10:15-29-3. CPE compliance period for new CPAs and Pas [AMENDED]
10:15-29-4. Required CPE for issuance of a permit [AMENDED]
10:15-29-5. Reciprocity [AMENDED]
10:15-29-6. Reporting and documentation by registrants [AMENDED]
10:15-29-7. Qualifying subjects [AMENDED]
10:15-29-9. Penalties for noncompliance with the CPE requirement
Subchapter 31. Standards for Continuing Professional Education
10:15-31-1. General standards for structured CPE [AMENDED]
10:15-31-2. Standards for structured CPE program development [AMENDED]
10:15-31-3. Standards for structured CPE program presentation [AMENDED]
10:15-31-4. Standards for structured CPE program measurement [AMENDED]
10:15-31-5. Standards for structured CPE program reporting by participant [AMENDED]
10:15-31-6. Documentation and record-keeping standards for CPE sponsors [AMENDED]
Subchapter 32. Standards for Continuing Professional Education (CPE) Programs [NEW]
10:15-32-1. Standards for permit holders [NEW]
10:15-32-2. Standards for CPE program sponsors [NEW]
10:15-32-3. Standards for CPE development [NEW]
10:15-32-4. Standards for CPE program presentation [NEW]
10:15-32-5. Standards for CPE program measurement [NEW]
10:15-32-6. Standards for CPE program reporting [NEW]
Subchapter 35. Reinstatement
10:15-35-1. Application for reinstatement [AMENDED]
10:15-32-2. Evaluation of applications for reinstatement [AMENDED]
10:15-35-4. Hearing on application for reinstatement [AMENDED]
Subchapter 37. Enforcement Procedures

Submissions for Review

10:15-37-1. Initiation of investigation [AMENDED]
10:15-37-10. Investigation costs [AMENDED]
10:15-37-11. Felony convictions and pleas [AMENDED]
Subchapter 39. Rules of Professional Conduct
10:15-39-2. Special definitions [REVOKED]
10:15-39-3. Independence [AMENDED]
10:15-39-7. Responsibilities to clients [AMENDED]

SUBMITTED TO GOVERNOR:

March 5, 2003

SUBMITTED TO HOUSE:

March 5, 2003

SUBMITTED TO SENATE:

March 5, 2003

[OAR Docket #03-361; filed 3-5-03]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #03-339]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix A. Fine Matrix [NEW]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-339; filed 3-3-03]

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

[OAR Docket #03-340]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Animal Health Reportable Diseases

35:15-3-1 [AMENDED]

35:15-3-2 [NEW]

35:15-3-3 [NEW]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-340; filed 3-3-03]

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

[OAR Docket #03-341]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Livestock Dealers and Livestock Special Sales

Part 3. Livestock Special Sales

35:15-9-11 [NEW]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-341; filed 3-3-03]

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

[OAR Docket #03-342]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 21. Swine Pseudorabies [REVOKED]

35:15-21-1 through 35:15-21-20 [REVOKED]

Subchapter 22. Swine Pseudorabies [NEW]

Part 1. General Provisions [NEW]

35:15-22-1 [NEW]

Part 3. Requirements for Swine Entering Oklahoma [NEW]

35:15-22-31 through 35:15-22-35 [NEW]

Part 5. Requirements for a Qualified Pseudorabies Negative Herd [NEW]

35:15-22-51 through 35:15-22-53 [NEW]

Part 7. Requirements for Swine Exhibitions [NEW]

35:15-22-71 [NEW]

Part 9. Requirements for Approved Markets [NEW]

35:15-22-91 [NEW]

Part 11. Pseudorabies Testing, Vaccine, and Quarantine Procedures [NEW]

35:15-22-110 through 35:15-22-115 [NEW]

Part 13. Violations of Requirements for Testing or Movement of Swine Into or Within the State of Oklahoma [NEW]
35:15-22-131 [NEW]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-342; filed 3-3-03]

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

[OAR Docket #03-343]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

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

Part 7. Interstate Movement Requirements

35:15-47-19 [NEW]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-343; filed 3-3-03]

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

[OAR Docket #03-345]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 25. Meat Inspection

Part 1. General Provisions

35:15-25-1 [AMENDED]

35:15-25-3 [AMENDED]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-345; filed 3-3-03]

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

[OAR Docket #03-347]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Forest Resources Development Program [NEW]

Part 1. General Provisions [NEW]

35:20-17-1 through 35:20-17-3 [NEW]

Part 3. Cost-Share Program Guidelines [NEW]

35:20-17-7 through 35:20-17-23 [NEW]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-347; filed 3-3-03]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 30. PLANT INDUSTRY**

[OAR Docket #03-348]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Combined Pesticide

Part 22. Wood Infestation Reports [NEW]

35:30-17-100 through 35:30-17-107 [NEW]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-348; filed 3-3-03]

Submissions for Review

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

[OAR Docket #03-346]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

35:35-1-2 [AMENDED]

35:35-1-3 [AMENDED]

SUBMITTED TO GOVERNOR:

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SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-346; filed 3-3-03]

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

[OAR Docket #03-344]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

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]

SUBMITTED TO GOVERNOR:

February 26, 2003

SUBMITTED TO HOUSE:

February 26, 2003

SUBMITTED TO SENATE:

February 26, 2003

[OAR Docket #03-344; filed 3-3-03]

TITLE 85. OKLAHOMA STATE BANKING DEPARTMENT CHAPTER 10. SUPERVISION, REGULATION AND ADMINISTRATION OF BANKS AND THE OKLAHOMA BANKING CODE

[OAR Docket #03-304]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Requirements, Standards and Procedures for an Internal Control Program

85:10-5-3 [AMENDED]

85:10-5-3.1 [NEW]

SUBMITTED TO GOVERNOR:

February 25, 2003

SUBMITTED TO HOUSE:

February 25, 2003

SUBMITTED TO SENATE:

February 25, 2003

[OAR Docket #03-304; filed 2-25-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 6. ELECTRICAL HEARING BOARD PROCEDURES [REVOKED]

[OAR Docket #03-282]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

310:6-1-1 [REVOKED]

310:6-1-2 [REVOKED]

310:6-1-3 [REVOKED]

310:6-1-4 [REVOKED]

310:6-1-5 [REVOKED]

310:6-1-6 [REVOKED]

310:6-1-7 [REVOKED]

310:6-1-8 [REVOKED]

310:6-1-9 [REVOKED]

310:6-1-10 [REVOKED]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-282; filed 2-21-03]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 7. PLUMBING HEARING BOARD
PROCEDURES [REVOKED]**

[OAR Docket #03-283]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

310:7-1-1 [REVOKED]
310:7-1-2 [REVOKED]
310:7-1-3 [REVOKED]
310:7-1-4 [REVOKED]
310:7-1-5 [REVOKED]
310:7-1-6 [REVOKED]
310:7-1-7 [REVOKED]
310:7-1-8 [REVOKED]
310:7-1-9 [REVOKED]
310:7-1-10 [REVOKED]

SUBMITTED TO GOVERNOR:

February 21, 2003

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February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-283; filed 2-21-03]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 110. FEE AND FINE SCHEDULE
FOR OCCUPATIONAL LICENSING**

[OAR Docket #03-284]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
310:110-1-1 [AMENDED]
Subchapter 3. Fees
310:110-3-2 [REVOKED]
Subchapter 5. Administrative Fine Schedule
310:110-5-1 [REVOKED]
310:110-5-2 [REVOKED]
310:110-5-3 [AMENDED]
310:110-5-6 [NEW]
310:110-5-7 [NEW]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-284; filed 2-21-03]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 234. MEDICAL
MICROPIGMENTATION**

[OAR Docket #03-285]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Medical Micropigmentation Certification
310:234-3-4 [AMENDED]
310:234-3-5 [AMENDED]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-285; filed 2-21-03]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 245. ELECTRICAL INDUSTRY
REGULATIONS [REVOKED]**

[OAR Docket #03-286]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [REVOKED]
310:245-1-1 [REVOKED]
310:245-1-2 [REVOKED]
310:245-1-3 [REVOKED]
Subchapter 3. Procedures of the Committee, the Hearing
Board and the Variance and Appeals Board [REVOKED]
310:245-3-1 [REVOKED]
310:245-3-2 [REVOKED]
310:245-3-3 [REVOKED]
Subchapter 5. Licensing Requirements [REVOKED]
310:245-5-1 [REVOKED]
310:245-5-2 [REVOKED]
310:245-5-3 [REVOKED]
Subchapter 7. License Classifications [REVOKED]
310:245-7-1 [REVOKED]
310:245-7-2 [REVOKED]
310:245-7-3 [REVOKED]
310:245-7-4 [REVOKED]

Submissions for Review

310:245-7-5 [REVOKED]
Subchapter 9. Examinations and License Applications
[REVOKED]
310:245-9-1 [REVOKED]
310:245-9-2 [REVOKED]
310:245-9-3 [REVOKED]
Subchapter 11. Prohibited Acts [REVOKED]
310:245-11-1 [REVOKED]
Subchapter 13. Plan Review and Code Variance
Applications and Fees, and Code Appeals [REVOKED]
310:245-13-1 [REVOKED]
310:245-13-2 [REVOKED]
310:245-13-3 [REVOKED]

SUBMITTED TO GOVERNOR:
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February 21, 2003
SUBMITTED TO SENATE:
February 21, 2003

[OAR Docket #03-286; filed 2-21-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 256. FOOD SERVICE ESTABLISHMENT REGULATIONS ESTABLISHMENTS

[OAR Docket #03-287]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 256. Food Service Establishment
Regulations Establishments [AMENDED]
SUBMITTED TO GOVERNOR:
February 21, 2003
SUBMITTED TO HOUSE:
February 21, 2003
SUBMITTED TO SENATE:
February 21, 2003

[OAR Docket #03-287; filed 2-21-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 275. INSPECTOR REGULATIONS [REVOKED]

[OAR Docket #03-288]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [REVOKED]

310:275-1-1 [REVOKED]
310:275-1-2 [REVOKED]
Subchapter 3. Inspector License Categories, Qualifications,
Requirements, and Fees, Certification and Continuing
Education [REVOKED]
310:275-3-1 [REVOKED]
310:275-3-2 [REVOKED]
310:275-3-3 [REVOKED]
310:275-3-4 [REVOKED]
310:275-3-5 [REVOKED]

SUBMITTED TO GOVERNOR:
February 21, 2003
SUBMITTED TO HOUSE:
February 21, 2003
SUBMITTED TO SENATE:
February 21, 2003

[OAR Docket #03-288; filed 2-21-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 276. HOME INSPECTION INDUSTRY

[OAR Docket #03-289]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [NEW]
310:276-1-1 [NEW]
310:276-1-2 [NEW]
310:276-1-3 [NEW]
Subchapter 3. Procedures of the Committee [NEW]
310:276-3-1 [NEW]
Subchapter 5. License Requirements. License Fees,
License Period, Re-examination, Display and Insurance
[NEW]
310:276-5-1 [NEW]
310:276-5-2 [NEW]
Subchapter 9. Examination Applications, Examinations,
Course Approval Requirements, Instructor
Requirements, Continuing Education, Denied
Application Appeal, Submission of Records, and
Continuing Education Reciprocity [NEW]
310:276-9-1 [NEW]
310:276-9-2 [NEW]
310:276-9-3 [NEW]
310:276-9-4 [NEW]
310:276-9-5 [NEW]
310:276-9-6 [NEW]
310:276-9-7 [NEW]
310:276-9-8 [NEW]
Subchapter 11. License Revocation and Suspension and
Prohibited Acts [NEW]

310:276-11-1 [NEW]

310:276-11-2 [NEW]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-289; filed 2-21-03]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 290. MECHANICAL INDUSTRY
REGULATIONS [REVOKED]**

[OAR Docket #03-290]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [REVOKED]

310:290-1-1 [REVOKED]

310:290-1-2 [REVOKED]

310:290-1-3 [REVOKED]

310:290-1-4 [REVOKED]

Subchapter 3. License Types, Limitations, Qualifications and Duration; Contractor Requirements; Application Procedures; Apprentice Registration; and License Retention Requirements [REVOKED]

310:290-3-1 [REVOKED]

310:290-3-2 [REVOKED]

310:290-3-3 [REVOKED]

310:290-3-4 [REVOKED]

310:290-3-5 [REVOKED]

310:290-3-6 [REVOKED]

310:290-3-7 [REVOKED]

310:290-3-8 [REVOKED]

Subchapter 5. Plan Review and Code Variance Procedures and Fees, and Code Appeals [REVOKED]

310:290-5-1 [REVOKED]

310:290-5-2 [REVOKED]

310:290-5-3 [REVOKED]

310:290-5-4 [REVOKED]

SUBMITTED TO GOVERNOR:

February 21, 2003

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[OAR Docket #03-290; filed 2-21-03]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 310. PLUMBING INDUSTRY
REGULATIONS [REVOKED]**

[OAR Docket #03-291]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [REVOKED]

310:310-1-1 [REVOKED]

310:310-1-2 [REVOKED]

Subchapter 3. Committee of Plumbing Examiners and the Plumbing Hearing Board [REVOKED]

310:310-3-1 [REVOKED]

310:310-3-2 [REVOKED]

310:310-3-3 [REVOKED]

310:310-3-4 [REVOKED]

Subchapter 5. License Types, License and Registration Fees, and Contractor Requirements [REVOKED]

310:310-5-1 [REVOKED]

310:310-5-2 [REVOKED]

310:310-5-3 [REVOKED]

310:310-5-4 [REVOKED]

Subchapter 7. Plan Review and Code Variance Procedures and Fees, and Code Appeals [REVOKED]

310:310-7-1 [REVOKED]

310:310-7-2 [REVOKED]

310:310-7-3 [REVOKED]

310:310-7-4 [REVOKED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 345. REGISTRATION OF
SANITARIANS AND ENVIRONMENTAL
SPECIALISTS**

[OAR Docket #03-292]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

310:345-1-1 [AMENDED]

310:345-1-1.1 [AMENDED]

310:345-1-2 [AMENDED]

Subchapter 3. Applications

Submissions for Review

310:345-3-1 [AMENDED]
310:345-3-3 [AMENDED]
310:345-3-4 [AMENDED]
310:345-3-6 [AMENDED]
Subchapter 5. Registration
310:345-5-1 [AMENDED]
310:345-5-2 [AMENDED]
310:345-5-3 [AMENDED]
Subchapter 7. Revocation and Reinstatement
310:345-7-1 [AMENDED]
310:345-7-2 [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 528. CHILDREN FIRST
ELIGIBILITY REQUIREMENTS**

[OAR Docket #03-293]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

310:528-1-1 [NEW]
310:528-1-2 [NEW]
310:528-1-3 [NEW]
310:528-1-4 [NEW]
310:528-1-5 [NEW]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 529. MULTIDISCIPLINARY
TEAMS FOR CHILD PROTECTION**

[OAR Docket #03-294]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [NEW]

310:529-1-1 [NEW]
310:529-1-2 [NEW]
310:529-1-3 [NEW]
Subchapter 3. Child Abuse Prevention Service [NEW]
310:529-3-1 [NEW]
310:529-3-2 [NEW]
310:529-3-3 [NEW]
310:529-3-4 [NEW]
310:529-3-5 [NEW]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 535. IMMUNIZATIONS**

[OAR Docket #03-295]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

310:535-1-2 [AMENDED]
310:535-1-3 [AMENDED]

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

[OAR Docket #03-296]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 667. Hospital Standards [AMENDED]

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**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 669. TRAUMA CARE
ASSISTANCE REVOLVING FUND**

[OAR Docket #03-297]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Reports and Financial Statements

310:669-5-1 [AMENDED]

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[OAR Docket #03-297; filed 2-21-03]

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

[OAR Docket #03-309]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

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]

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, and 02-08)

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[OAR Docket #03-309; filed 2-25-03]

Submissions for Review

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

[OAR Docket #03-310]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

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)

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

[OAR Docket #03-308]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

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

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TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION

[OAR Docket #03-329]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Scope, Applicability, and General Provisions
340:25-1-1.1 [AMENDED]
340:25-1-2.1 [AMENDED]
Subchapter 5. Operational Policies
Part 9. Disclosure of Information
340:25-5-66 through 340:25-5-67 [AMENDED]
Part 15. Case Initiation, Case Management, and Case
Closure
340:25-5-110.1 [AMENDED]
340:25-5-114 [AMENDED]
340:25-5-118 [AMENDED]
340:25-5-123 [AMENDED]
340:25-5-124 [AMENDED]
340:25-5-124.1 [AMENDED]
340:25-5-124.2 [NEW]
340:25-5-133 [NEW]
Part 17. Past Support
340:25-5-140.1 [AMENDED]
Part 21. Establishment
340:25-5-178 [AMENDED]
340:25-5-179.1 [AMENDED]
340:25-5-183 [AMENDED]
340:25-5-185.1 [AMENDED]
Part 22. Review and Modification
340:25-5-198.1 through 340:25-5-198.2 [AMENDED]
Part 23. Enforcement
340:25-5-200.2 [NEW]
340:25-5-201.1 [NEW]
Part 31. Consumer Reporting Agencies - Credit Bureaus
340:25-5-265.1 [AMENDED]
Part 37. Recovery
340:25-5-305 [AMENDED]
340:25-5-312 [AMENDED]
340:25-5-336 [AMENDED]
Part 39. Accounting and Distribution
340:25-5-350.1 [AMENDED]
340:25-5-350.3 through 340:25-5-351 [AMENDED]
(Reference APA WF # 02-32 and 02-44)

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

[OAR Docket #03-364]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- Part 10. Oklahoma Children's Services (OCS)
- 340:75-1-150 through 340:75-1-151 [AMENDED]
- 340:75-1-151.1 through 340:75-1-151.2 [NEW]
- 340:75-1-152 [AMENDED]
- 340:75-1-152.1 through 340:75-1-152.2 [REVOKED]
- 340:75-1-152.3 through 340:75-1-152.9 [NEW]
- 340:75-1-153 [REVOKED]
- 340:75-1-154 [AMENDED]
- 340:75-1-155 [NEW]
- Part 11. Comprehensive Home-Based Services (CHBS)
- 340:75-1-175 through 340:75-1-176 [AMENDED]
- 340:75-1-177 through 340:75-1-178 [REVOKED]
- 340:75-1-179 [AMENDED]
- 340:75-1-180 through 340:75-1-184 [REVOKED]
- Part 12. Independent Living [NEW]
- 340:75-1-185 [NEW]
- Subchapter 6. Permanency Planning
- Part 13. Independent Living
- 340:75-6-115.2 [REVOKED]

(Reference APA WF # 02-47)

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

[OAR Docket #03-362]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- Part 3. Licensing Services - Residential Care and Agencies
- 340:110-1-40 through 340:110-1-47 [AMENDED]
- 340:110-1-47.1 through 340:110-1-47.2 [NEW]
- 340:110-1-51 through 340:110-1-55 [AMENDED]

(Reference APA WF # 02-45)

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

[OAR Docket #03-363]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- Part 1. Licensing Services - Child Care
- 340:110-1-5 through 340:110-1-6 [AMENDED]
- 340:110-1-8.3 [AMENDED]
- 340:110-1-9 through 340:110-1-9.1 [AMENDED]
- 340:110-1-9.3 through 340:110-1-9.5 [AMENDED]
- 340:110-1-10 [AMENDED]
- 340:110-1-20 [AMENDED]

(Reference APA WF # 02-46)

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[OAR Docket #03-363; filed 3-5-03]

**TITLE 545. BOARD OF PODIATRIC MEDICAL EXAMINERS
CHAPTER 15. EXAMINATION/~~PRECEPTORSHIP~~/
LICENSURE**

[OAR Docket #03-332]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- 545:15-1-1. Purpose [AMENDED]

Submissions for Review

545:15-1-2. Examination [AMENDED]
545:15-1-3.1. Direct supervision of an applicant [REVOKED]
545:15-1-6. Qualifications for a preceptee [REVOKED]
545:15-1-7. Qualifications for a preceptor [REVOKED]
545:15-1-8. Course of study for preceptee [REVOKED]
545:15-1-9. Progress review of preceptee [REVOKED]

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**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #03-311]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

590:1-1-5. Retirement Coordinators [AMENDED]
590:1-1-6. Hearing procedures [AMENDED]

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

[OAR Docket #03-312]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
590:10-1-4. Health insurance contribution [AMENDED]
590:10-1-7. ~~Non state agency~~ Employer contributions [AMENDED]

590:10-1-9. Receipt of documents [AMENDED]
590:10-1-11. De minimis provisions [AMENDED]
590:10-1-14. Compensation for retirement purposes [NEW]
590:10-1-15. Hazardous Duty Members [NEW]
Subchapter 3. Credited Service
590:10-3-6. Full-time-equivalent employment [AMENDED]
590:10-3-10. Incentive credit [AMENDED]
Subchapter 7. Retirement Benefits
590:10-7-3. Longevity and other annual lump-sum payments [AMENDED]
590:10-7-9. Fractional year computations [AMENDED]
590:10-7-15. Post-retirement employment [AMENDED]
Subchapter 9. Survivors and Beneficiaries
590:10-9-3. Divorced spouse beneficiaries [AMENDED]
Subchapter 11. Transported and State Portable Service Credit
590:10-11-1. Transported service credit [AMENDED]

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

[OAR Docket #03-313]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

590:15-1-15. Compensation for retirement purposes [NEW]
590:15-1-16. Longevity and other annual lump-sum payments [NEW]

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

[OAR Docket #03-314]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 590:25-1-3. Definitions [AMENDED]
- Subchapter 3. Election to Defer Compensation
- 590:25-3-1. Election limits [AMENDED]
- 590:25-3-3. Discontinuation [AMENDED]
- Subchapter 5. Assets, Credits, Accounts and Reports
- 590:25-5-1. Remittance [AMENDED]
- 590:25-5-8. Establishment of Accounts [AMENDED]
- 590:25-5-10. Valuation of Accounts [AMENDED]
- Subchapter 9. Benefits
- 590:25-9-8. Death [AMENDED]
- 590:25-9-9. Designated beneficiary [AMENDED]
- 590:25-9-13. Plan-to-plan transfers [AMENDED]
- 590:25-9-16. Rollovers from other plans [AMENDED]
- 590:25-9-19. Transfers and rollover completion [NEW]
- Subchapter 13. ~~Agents~~ Administration Functions of the Plan
- 590:25-13-1. Administrative staff [AMENDED]
- 590:25-13-2. Deferred Compensation Coordinator [AMENDED]
- 590:25-13-3. Completing forms

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**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 30. QUALIFIED DOMESTIC
RELATIONS ORDERS**

[OAR Docket #03-315]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- 590:30-1-4. Contents of qualified domestic relations order [AMENDED]
- 590:30-1-5. Payment to alternate payee [AMENDED]
- 590:30-1-6. Termination of a qualified domestic relations order [AMENDED]

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

[OAR Docket #03-316]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 5. Accounts
- 590:35-5-1. Establishment of Accounts [AMENDED]
- 590:35-5-3. Valuation of Accounts [AMENDED]
- Subchapter 7. Contributions
- 590:35-7-3. Rollover contributions [AMENDED]
- Subchapter 13. Benefits and Distributions
- 590:35-13-1. Commencement [AMENDED]
- Subchapter 21. ~~Agents~~ Administration Functions of the Plan
- 590:35-21-1. Administrative staff [AMENDED]
- 590:35-21-3. Oklahoma State Employee Deferred Savings Incentive Plan Coordinator ("Coordinator") [AMENDED]
- 590:35-21-4. Completing forms [AMENDED]

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**TITLE 612. STATE DEPARTMENT OF
REHABILITATION SERVICES
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #03-366]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Administrative Components of the Department
- 612:1-3-3 [AMENDED]

Submissions for Review

612:1-3-10 [AMENDED]
Subchapter 5. Program Divisions Within the Department
612:1-5-2 [AMENDED]
612:1-5-3 [AMENDED]
612:1-5-4.1 [AMENDED]
Subchapter 7. Relationships with Department Established
by Law
612:1-7-3 [AMENDED]
Subchapter 11. Compliance with the Americans With
Disabilities Act of 1990
Part 3. Reasonable Accommodation
612:1-11-16 [AMENDED]
Subchapter 13. Civil Rights and Nondiscrimination on
Basis of Race, Color, National Origin, Sex, Age or
Disability
612:1-13-5 [AMENDED]
612:1-13-6 [AMENDED]

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[OAR Docket #03-366; filed 3-6-03]

**TITLE 612. STATE DEPARTMENT OF
REHABILITATION SERVICES
CHAPTER 3. MANAGEMENT SERVICES
DIVISION**

[OAR Docket #03-367]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
612:3-1-2 [AMENDED]
612:3-1-3 [AMENDED]
Subchapter 3. Human Resources Unit
Part 1. Overview of Human Resources Unit
612:3-3-2 [REVOKED]
Subchapter 5. Policy Development and Program Standards
Part 3. Policy Development
612:3-5-16 [AMENDED]

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[OAR Docket #03-367; filed 3-6-03]

**TITLE 612. STATE DEPARTMENT OF
REHABILITATION SERVICES
CHAPTER 10. REHABILITATIVE AND
VISUAL SERVICES**

[OAR Docket #03-368]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 10. Vocational Rehabilitative Rehabilitation and
Visual Services [AMENDED]

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[OAR Docket #03-368; filed 3-6-03]

**TITLE 612. STATE DEPARTMENT OF
REHABILITATION SERVICES
CHAPTER 15. OKLAHOMA LIBRARY
FOR THE BLIND AND PHYSICALLY
HANDICAPPED (OLBPH)**

[OAR Docket #03-369]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
612:15-1-4 [REVOKED]
Subchapter 3. OLBPH Services
612:15-3-6 [AMENDED]

SUBMITTED TO GOVERNOR:

March 6, 2003

SUBMITTED TO HOUSE:

March 6, 2003

SUBMITTED TO SENATE:

March 6, 2003

[OAR Docket #03-369; filed 3-6-03]

**TITLE 612. STATE DEPARTMENT OF
REHABILITATION SERVICES
CHAPTER 20. SPECIAL SCHOOLS**

[OAR Docket #03-370]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 2. Contracted Instructional Personnel

612: 20-2-13 [AMENDED]
612: 20-2-17 [AMENDED]
Subchapter 3. General Operating Procedures for the Schools
Part 1. General Educational Policies
612:20-3-8 [AMENDED]
Subchapter 5. Oklahoma School for the Blind (OSB/Parkview School) Admission Rules
612:20-5-7 [AMENDED]
Subchapter 7. Oklahoma School for the Deaf (OSD) Admission Rules
612:20-7-8 [AMENDED]

SUBMITTED TO GOVERNOR:

March 6, 2003

SUBMITTED TO HOUSE:

March 6, 2003

SUBMITTED TO SENATE:

March 6, 2003

[OAR Docket #03-370; filed 3-6-03]

**TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 25. BUSINESS ENTERPRISE PROGRAM**

[OAR Docket #03-371]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 2. General Provisions
612:25-2-5 [AMENDED]
Subchapter 4. The State Licensing Agency
Part 1. Organization and General Operation Standards
612:25-4-2 [AMENDED]
612:25-4-53 [AMENDED]
612:25-4-55 [AMENDED]
612:25-4-59 [AMENDED]
Subchapter 6. Licensed Managers and Business Enterprise Operation
Part 3. Business Enterprises
612:25-6-21 [AMENDED]
Part 5. The Elected Committee of Licensed Managers
612:25-6-33 [AMENDED]

SUBMITTED TO GOVERNOR:

March 6, 2003

SUBMITTED TO HOUSE:

March 6, 2003

SUBMITTED TO SENATE:

March 6, 2003

[OAR Docket #03-371; filed 3-6-03]

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 15. FISCAL, PERSONNEL AND GENERAL OPERATIONS**

[OAR Docket #03-321]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 37. Pay Incentive Plan [NEW]
725:15-37-1 [NEW]
725:15-37-2 [NEW]

SUBMITTED TO GOVERNOR:

February 24, 2003

SUBMITTED TO HOUSE:

February 24, 2003

SUBMITTED TO SENATE:

February 24, 2003

[OAR Docket #03-321; filed 2-26-03]

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 15. FISCAL, PERSONNEL AND GENERAL OPERATIONS**

[OAR Docket #03-323]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 35. Revenue Bond and Note Issuance [NEW]
725:15-35-1 [NEW]
725:15-35-2 [NEW]
725:15-35-3 [NEW]
725:15-35-4 [NEW]
725:15-35-5 [NEW]

SUBMITTED TO GOVERNOR:

February 24, 2003

SUBMITTED TO HOUSE:

February 24, 2003

SUBMITTED TO SENATE:

February 24, 2003

[OAR Docket #03-323; filed 2-26-03]

Submissions for Review

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 25. STATE LODGES OPERATIONS

[OAR Docket #03-322]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 21. Lodge Division Employee Pay Incentive Plan [REVOKED]

725:25-21-1 [REVOKED]

725:25-21-2 [REVOKED]

725:25-21-3 [REVOKED]

725:25-21-4 [REVOKED]

725:25-21-5 [REVOKED]

SUBMITTED TO GOVERNOR:

February 24, 2003

SUBMITTED TO HOUSE:

February 24, 2003

SUBMITTED TO SENATE:

February 24, 2003

[OAR Docket #03-322; filed 2-26-03]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 30. DIVISION OF STATE PARKS

[OAR Docket #03-319]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 22. Private Concessions

725:30-22-1. [AMENDED]

725:30-22-2. [NEW]

725:30-22-3. [AMENDED]

725:30-22-4. [AMENDED]

725:30-22-5. [NEW]

725:30-22-6. [NEW]

725:30-22-7. [NEW]

725:30-22-8. [NEW]

SUBMITTED TO GOVERNOR:

February 24, 2003

SUBMITTED TO HOUSE:

February 24, 2003

SUBMITTED TO SENATE:

February 24, 2003

[OAR Docket #03-319; filed 2-26-03]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 30. DIVISION OF STATE PARKS

[OAR Docket #03-318]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 23. Mineral Leases and Operations [NEW]

725:30-23-1. [NEW]

725:30-23-2. [NEW]

725:30-23-3. [NEW]

725:30-23-4. [NEW]

725:30-23-5. [NEW]

SUBMITTED TO GOVERNOR:

February 24, 2003

SUBMITTED TO HOUSE:

February 24, 2003

SUBMITTED TO SENATE:

February 24, 2003

[OAR Docket #03-318; filed 2-26-03]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 30. DIVISION OF STATE PARKS

[OAR Docket #03-320]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 18. Special Use Areas

725:30-18-1 [REVOKED]

725:25-18-4 [REVOKED]

SUBMITTED TO GOVERNOR:

February 24, 2003

SUBMITTED TO HOUSE:

February 24, 2003

SUBMITTED TO SENATE:

February 24, 2003

[OAR Docket #03-320; filed 2-26-03]

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 35. THE OKLAHOMA FILM OFFICE**

[OAR Docket #03-317]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Oklahoma Film Enhancement Rebate Program

725:35-1-3. [AMENDED]

SUBMITTED TO GOVERNOR:

February 24, 2003

SUBMITTED TO HOUSE:

February 24, 2003

SUBMITTED TO SENATE:

February 24, 2003

[OAR Docket #03-317; filed 2-26-03]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 1. ORGANIZATION AND METHOD OF OPERATIONS**

[OAR Docket #03-276]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

765:1-1-1 [AMENDED]

765:1-1-2 [AMENDED]

765:1-1-2.1 [NEW]

765:1-1-9 [AMENDED]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-276; filed 2-21-03]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 2. INFORMAL AND FORMAL PROCEDURES**

[OAR Docket #03-277]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 3. Formal Procedures

765:2-3-1 [AMENDED]

765:2-3-6 [AMENDED]

765:2-3-10 [AMENDED]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-277; filed 2-21-03]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 10. USED MOTOR VEHICLE DEALERS**

[OAR Docket #03-278]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees

765:10-1-1 [AMENDED]

Subchapter 3. Operation

765:10-3-1 [AMENDED]

765:10-3-3 [AMENDED]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-278; filed 2-21-03]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 15. USED MOTOR VEHICLE SALESMEN**

[OAR Docket #03-279]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees

765:15-1-3 [AMENDED]

SUBMITTED TO GOVERNOR:

February 21, 2003

Submissions for Review

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-279; filed 2-21-03]

**TITLE 765. OKLAHOMA USED MOTOR
VEHICLE AND PARTS COMMISSION
CHAPTER 30. BUYER'S IDENTIFICATION
CARDS**

[OAR Docket #03-280]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 7. Salvage Pools and Salvage Disposal Sales

765:30-7-1 [AMENDED]

765:30-7-2 [AMENDED]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-280; filed 2-21-03]

**TITLE 765. OKLAHOMA USED MOTOR
VEHICLE AND PARTS COMMISSION
CHAPTER 37. MANUFACTURED HOME
INSTALLERS**

[OAR Docket #03-281]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 7. Installation Standards for Ground Sets

765:37-7-4 [AMENDED]

SUBMITTED TO GOVERNOR:

February 21, 2003

SUBMITTED TO HOUSE:

February 21, 2003

SUBMITTED TO SENATE:

February 21, 2003

[OAR Docket #03-281; filed 2-21-03]

**TITLE 775. BOARD OF VETERINARY
MEDICAL EXAMINERS
CHAPTER 10. LICENSURE OF
VETERINARIANS, VETERINARY
TECHNICIANS AND ANIMAL EUTHANASIA
TEHNICIANS**

[OAR Docket #03-351]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

775:10-1-1 [AMENDED]

Subchapter 3. Licensure of Veterinarians

775:10-3-5 [AMENDED]

775:10-3-12 [AMENDED]

Subchapter 5. Rules of Professional Conduct

775:10-5-30 [AMENDED]

Subchapter 7. Certification of Veterinary Technicians

775:10-7-1 [AMENDED]

775:10-7-2 [AMENDED]

775:10-7-4 [AMENDED]

775:10-7-6 [AMENDED]

775:10-7-8 [AMENDED]

775:10-7-9 [AMENDED]

775:10-7-10 [AMENDED]

Subchapter 8. Certification of Euthanasia Technicians

775:10-8-2 [AMENDED]

775:10-8-7 [AMENDED]

775:10-8-22 [AMENDED]

SUBMITTED TO GOVERNOR:

March 5, 2003

SUBMITTED TO HOUSE:

March 5, 2003

SUBMITTED TO SENATE:

March 5, 2003

[OAR Docket #03-351; filed 3-5-03]

**TITLE 775. BOARD OF VETERINARY
MEDICAL EXAMINERS
CHAPTER 25. RECORDKEEPING AND
SUPERVISION REQUIREMENTS**

[OAR Docket #03-350]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

775:25-7-4 [AMENDED]

SUBMITTED TO GOVERNOR:

March 5, 2003

SUBMITTED TO HOUSE:

March 5, 2003

SUBMITTED TO SENATE:

March 5, 2003

[OAR Docket #03-350; filed 3-5-03]

Gubernatorial Approvals

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

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

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

[OAR Docket #03-365]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 11. Importation of Livestock, Poultry and Pets

Part 1. General

35:15-11-1 [AMENDED]

Part 7. Livestock

35:15-11-19 [REVOKED]

GUBERNATORIAL APPROVAL:

February 19, 2003

[OAR Docket #03-365; filed 3-5-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #03-330]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 17. Combined Pesticide

Part 3. Certification, Conduct of Examinations, and Recertification

35:30-17-4 [AMENDED]

Part 5. Prerequisites for Licensing

35:30-17-10 [AMENDED]

35:30-17-11 [AMENDED]

Part 8. Expiration of Registrations and Permits

35:30-17-17 [AMENDED]

35:30-17-18 [AMENDED]

Part 9. Minimum Standards for Contracts and Keeping of Records

35:30-17-21 [AMENDED]

Part 10. Minimum Standards for Pesticides

35:30-17-22.4 [AMENDED]

Part 13. Restricted Areas for the Application of Hormone Type Pesticides

35:30-17-33 [AMENDED]

GUBERNATORIAL APPROVAL:

February 19, 2003

[OAR Docket #03-330; filed 2-27-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #03-331]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 37. Nursery Stock Sales

35:30-37-10 [NEW]

GUBERNATORIAL APPROVAL:

February 19, 2003

[OAR Docket #03-331; filed 2-27-03]

TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 10. PROVISIONS AND PENALTIES APPLICABLE TO ALL LICENSEES

[OAR Docket #03-333]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Provisions Applicable to All Licensees

45:10-3-12. Restriction on delivery of alcohol beverages
[AMENDED]

GUBERNATORIAL APPROVAL:

February 19, 2003

[OAR Docket #03-333; filed 2-28-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #03-300]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-101 [NEW]

210:20-9-102 [NEW]

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

February 5, 2003

[OAR Docket #03-300; filed 2-24-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 25. FINANCE

[OAR Docket #03-302]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Funding Criteria
210:25-3-7 [AMENDED]
Subchapter 5. Budgeting and Business Management
Part 1. Implementation
210:25-5-4 [AMENDED]

GUBERNATORIAL APPROVAL:

February 5, 2003

[OAR Docket #03-302; filed 2-24-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION

[OAR Docket #03-301]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 5. Transportation
210:30-5-1 [AMENDED]

GUBERNATORIAL APPROVAL:

February 5, 2003

[OAR Docket #03-301; filed 2-24-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

[OAR Docket #03-299]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 21. Alternative Instructional Delivery Systems
210:35-21-2 [AMENDED]

GUBERNATORIAL APPROVAL:

February 5, 2003

[OAR Docket #03-299; filed 2-24-03]

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

[OAR Docket #03-324]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 5. Local Project Funding [NEW]
240:1-5-1. Purpose [NEW]
240:1-5-2. Definitions [NEW]
240:1-5-3. Local Project funding announcement [NEW]
240:1-5-4. Evaluation of local project funding contract
applications [NEW]
240:1-5-5. Affidavit of LPF officer [NEW]
240:1-5-6. Serial numbering of local project funding
contracts [NEW]
240:1-5-7. Monitoring of local project funding contracts
[NEW]

GUBERNATORIAL APPROVAL:

February 20, 2003

[OAR Docket #03-324; filed 2-26-03]

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

[OAR Docket #03-325]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Benefits
Part 12. Interest Waiver for Benefit Overpayments [NEW]
240:10-3-60. Definitions [NEW]
240:10-3-61. Filing a request for waiver [NEW]
240:10-3-62. Three year limitation, assessment of penalty
and accrual of interest [NEW]
240:10-3-63. Request letter [NEW]
240:10-3-64. Initial determination [NEW]
240:10-3-65. Appeal of initial determination [NEW]
240:10-3-66. Jurisdiction and authority of Appeal Tribunal
[NEW]
240:10-3-67. Appeal Tribunal hearing [NEW]
240:10-3-68. Appeal [NEW]
240:10-3-69. Waiver to be denied [NEW]
Subchapter 11. Assesment Board Procedure

Part 1. General Provisions
240:10-11-8. Judicial ethics [AMENDED]
Subchapter 13. Appeal Tribunal Procedure
Part 1. General Provisions
240:10-13-5. Jurisdiction [AMENDED]
240:10-13-9. Judicial ethics [AMENDED]

GUBERNATORIAL APPROVAL:

February 20, 2003

[OAR Docket #03-325; filed 2-26-03]

**TITLE 318. HIGHWAY CONSTRUCTION
MATERIALS TECHNICIAN
CERTIFICATION BOARD
CHAPTER 10. EXAMINATION AND
CERTIFICATION**

[OAR Docket #03-337]

RULEMAKING ACTION:

Gubernatorial Approval

RULES:

- 318:10-1-3 Areas of Certification [AMENDED]
- 318:10-1-4 Examination Criteria [AMENDED]
- 318:10-1-6 Recertification [AMENDED]
- 318:10-1-7 Temporary Certification [AMENDED]
- 318:10-1-8 Continuing Training Requirements [AMENDED]
- 318:10-1-10 Grounds for Discipline [AMENDED]
- 318:10-1-11 Fees [AMENDED]

GUBERNATORIAL APPROVAL:

February 19, 2003

[OAR Docket #03-337; filed 3-3-03]

**TITLE 395. OKLAHOMA LAW
ENFORCEMENT RETIREMENT SYSTEM
CHAPTER 10. RETIREMENT AND
PENSION BENEFITS PROGRAM**

[OAR Docket #03-334]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

- 395:10-1-2.1. Receipt of documents [NEW]
- 395:10-1-2.2. Failure to submit documents [NEW]
- 395:10-1-2.3. Authorized member signature [NEW]
- 395:10-1-2.4. Recordkeeping requirements [NEW]
- 395:10-1-3. Hearing procedures [AMENDED]
- 395:10-1-4. Benefits [AMENDED]
- 395:10-1-4.1. Refund of contributions [NEW]
- 395:10-1-4.2. Health insurance contribution [NEW]
- 395:10-1-7.1. Involuntary furlough [NEW]
- 395:10-1-9. Purchase of prior service credit [AMENDED]

- 395:10-1-9.1. Purchase price payments/Transfer of Credited Service [NEW]
- 395:10-1-10.1. Allowable adjustments [NEW]
- 395:10-1-11. Deferred Option Plan [AMENDED]
- 395:10-1-11.1. Direct Rollovers [NEW]
- 395:10-1-13. Application for service related disability retirement requirements [AMENDED]
- 395:10-1-14. ~~Termination of disability benefits~~ Gainful work [AMENDED]

GUBERNATORIAL APPROVAL:

February 19, 2003

[OAR Docket #03-334; filed 2-28-03]

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

[OAR Docket #03-372]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

- 575:1-1-2 [AMENDED]
- 575:1-1-3 [AMENDED]
- 575:1-1-4 [AMENDED]

GUBERNATORIAL APPROVAL:

February 27, 2003

[OAR Docket #03-372; filed 3-6-03]

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

[OAR Docket #03-373]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

- 575:10-1-2 [AMENDED]
- 575:10-1-3 [AMENDED]
- 575:10-1-5 [AMENDED]
- 575:10-1-6 [AMENDED]
- 575:10-1-7 [AMENDED]
- 575:10-1-8 [AMENDED]
- 575:10-1-10 [AMENDED]

GUBERNATORIAL APPROVAL:

February 27, 2003

[OAR Docket #03-373; filed 3-6-03]

Gubernatorial Approvals

**TITLE 730. DEPARTMENT OF
TRANSPORTATION
CHAPTER 40. RAILROADS**

[OAR Docket #03-336]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. Railroad Program [NEW]

Subchapter 3. Railroad Rehabilitation Act Loan Program
[NEW]

730:40-3-1 [NEW]

730:40-3-2 [NEW]

730:40-3-3 [NEW]

730:40-3-4 [NEW]

730:40-3-5 [NEW]

730:40-3-6 [NEW]

GUBERNATORIAL APPROVAL:

February 19, 2003

[OAR Docket #03-336; filed 3-3-03]

Withdrawn Rules

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

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

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

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

[OAR Docket #03-327]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

WITHDRAWN RULES:

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

DATES:

Adoption:

January 25, 2003

Submitted to Governor:

January 31, 2003

Submitted to House:

January 31, 2003

Submitted to Senate:

January 31, 2003

Withdrawn:

February 27, 2003

[OAR Docket #03-327; filed 2-27-03]

Emergency Adoptions

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

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

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

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

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

[OAR Docket #03-307]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 85. ADvantage Program Waiver Services

317:30-5-764. [AMENDED]

(Reference APA WF # 02-23A)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 1619b of the Social Security Act

DATES:

Adoption:

December 12, 2002

Approved by Governor:

January 30, 2003

Effective:

Immediately upon Governor's approval or February 1, 2003, 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 revisions to Medical Providers-Fee for Service, ADvantage Program Waiver Services specific, rules to reduce the number of denied ADvantage provider claims. A benefit of the prior authorization process will be to identify problems related to consumer eligibility at the beginning of the service delivery authorization rather than to discover problems only after the ADvantage providers' claims are denied. Revisions reduce unnecessary burdens on providers by reducing timely reimbursement delays.

ANALYSIS:

Medical Providers-Fee for Service, ADvantage Program Waiver Services specific, rules are being revised to require MMIS prior authorization for all ADvantage service plan approved services. Existing rules allow the Administrative Agent (Long-Term Care Authority of Tulsa) to prior authorize only a subset of ADvantage services on the MMIS prior authorization file. Policy revisions allow the Administrative Agent to post, via electronic files generated from approved service plan or service plan updated records on the Waiver Management Information Systems, the prior authorizations to the MMIS. A benefit of the prior authorization process will be to identify problems related to consumer eligibility at the beginning of the service delivery authorization rather than to discover problems only after the ADvantage

providers' claims are denied. The revision are needed to reduce reimbursement delays through more timely resolution of eligibility related issues and a reduction in the number of denied provider claims. An additional revision will identify certain ADvantage services and associate them with other established Medicaid or State funded services as those services' rate setting methodologies are currently used to determine the ADvantage service rates since the providers must have the equivalent qualifications to provide both services.

CONTACT PERSON:

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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 FEBRUARY 1, 2003, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 85. ADVANTAGE PROGRAM WAIVER SERVICES

317:30-5-764. Reimbursement

(a) Rates for waiver services are set in accordance with the rate setting process by the Committee for Rates and Standards and approved by the Oklahoma Health Care Authority Board.

(1) The rate for NF Respite is set equivalent to the rate for enhanced nursing facility services that require providers having equivalent qualifications;

(2) The rate for daily units for Adult Day Health Care are set equivalent to the rate established by the Oklahoma Department of Human Services for the equivalent services provided for the DHS Adult Day Service Program that require providers having equivalent qualifications;

(3) The rate for units of Home-Delivered Meals are set equivalent to the rate established by the Oklahoma Department of Human Services for the equivalent services provided for the DHS Home-Delivered Meals Program that require providers having equivalent qualifications;

(4) The rates for units of In-Home Respite, CHC Personal Care, and CHC In-Home Respite are set equivalent

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to State Plan Agency Personal Care unit rate which require providers having equivalent qualifications;

(5) The rates for a unit of Skilled Nursing and CHC Skilled Nursing are set equivalent to State Plan Home Health Benefit Skilled Nursing unit that require providers having equivalent qualifications.

(b) ~~The certified AA approved ADvantage service plan authorizes services is the basis for the MMIS service prior authorization, specifying:~~

- (1) service;
- (2) service provider;
- (3) units authorized; and
- (4) begin and end dates of service authorization.

(c) ~~Providers file on Claim Form HCFA 1500.~~

(d) ~~The AA prior authorizes on the MMIS prior authorization file the following ADvantage services:~~

- (1) ~~Medical Equipment and Supplies;~~
- (2) ~~Environmental Modifications;~~
- (3) ~~Nursing Facility Respite; and~~
- (4) ~~Hospice Services.~~

(e) ~~As part of ADvantage quality assurance audits, the AA provider audits evaluate evaluate whether paid claims are consistent with service plan authorizations and documentation of service provision for services that are not prior authorized through the MMIS. Evidence of paid claims that are not supported by service plan authorization and/or documentation of service provision will be turned over to SURS for follow-up investigation.~~

[OAR Docket #03-307; filed 2-25-03]
(format accepted 2-26-03)

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

[OAR Docket #03-306]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Coverage and Exclusions

317:35-3-1. [AMENDED]

Subchapter 6. SoonerCare Health Benefits for Categorically Needy Pregnant Women and Families With Children

Part 7. Certification, Redetermination and Notification

317:35-6-60. [AMENDED]

Subchapter 7. Medical Services

Part 7. Certification, Redetermination and Notification

317:35-7-60. [AMENDED]

(Reference APA WF # 02-25)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Sections 1115(a) and 1902(A)(34) of the Social Security Act

DATES:

Adoption:

December 12, 2002

Approved by Governor:

January 30, 2003

Effective:

Immediately upon Governor's approval or February 1, 2003, 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 which limit retroactive eligibility for certain Medicaid eligibles. The state constitution requires all agencies to maintain a balanced budget. An emergency rule is necessary in order for the Agency to maintain a balanced budget as failure to do so would lead to a breach of the state constitution. Agency staff estimates a total annual savings of \$12,861,957 with a state share savings of \$3,600,000.

ANALYSIS:

Medical Assistance for Adults and Children-Eligibility rules are revised to limit retroactive eligibility for certain Medicaid eligibles. The groups of Medicaid eligibles that will be effected by these revisions include categorically needy pregnant women and individuals to Aid to Families with Dependent Children.

The initial SoonerCare 1115(a) Waiver application submitted by the Oklahoma Health Care Authority to the Center for Medicare and Medicaid (CMS) requested approval to waive Section 1902(A)(34) of the Social Security Act requiring the State to provide for up to three months of retroactive eligibility. OHCA was granted authority to waive this provision in the SoonerCare demonstration project award letter dated October 12, 1995. The purpose of waiving this provision was to allow the State to enroll, almost immediately, demonstration participants into prepaid health plans through a streamline eligibility process. However, at the time of the SoonerCare demonstration project approval, the State had not developed a streamline eligibility process and the supporting operational protocol was not developed.

The Agency has since developed and implemented an effective streamlined eligibility process for pregnant women, TANF/AFDC related and low income children. These categorical groups represent the majority of SoonerCare demonstration participants. The Agency, in collaboration with CMS, has begun the operational protocol for the elimination of retroactive eligibility for pregnant women, TANF/AFDC related and low income children. Other revisions: (1) move language from actual agency rules to the appropriate sections' "Instructions to Staff" and (2) clarify procedures to be followed by DHS staff when determining eligibility for Medicaid benefits.

CONTACT PERSON:

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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 FEBRUARY 1, 2003, WHICHEVER IS LATER:

SUBCHAPTER 3. COVERAGE AND EXCLUSIONS

317:35-3-1. ~~Payment for Title XIX (Medicaid)~~

(a) **Payment eligibility.** In order for the Authority to make payment for ~~Title XIX Medicaid~~ services, the individual must ~~have been~~ be determined eligible to have such payment made by:

- (1) having eligibility previously determined as a categorically needy or medically needy individual, or

(2) making application for ~~Title XIX Medicaid~~ at the time the medical services is requested, and having eligibility determined at that time, ~~or,~~

(3) making application for a medical service that was provided during one of the prior three months, and having eligibility determined for the time the service was received.

(b) **Recipient lock-in.** ~~Title XIX Medicaid~~ recipients who have demonstrated ~~Title XIX Medicaid~~ usage above the statistical norm, during a 12-month period, may be "locked-in" to one primary physician and/or one pharmacy. If OHCA has determined that ~~Title XIX Medicaid~~ has been over-utilized, the recipient is notified, by letter, of the need to select a primary physician and/or pharmacy and of their opportunity for a fair hearing. A copy of the letter is sent to the DHS county office. If the recipient does not select a physician and/or pharmacy, one is selected for her/him. "Locked-in" recipients may obtain emergency services from a physician and/or an emergency room facility in the event of a medical emergency.

SUBCHAPTER 6. SOONERCARE HEALTH BENEFITS FOR CATEGORICALLY NEEDY PREGNANT WOMEN AND FAMILIES WITH CHILDREN

PART 7. CERTIFICATION, REDETERMINATION AND NOTIFICATION

317:35-6-60. Certification for SoonerCare Health Benefits for pregnant women and families with children

An individual determined eligible for SoonerCare Health Benefits may be certified for a medical service provided on or after the first day of the third month prior to of the month of application. ~~The certification period is determined beginning with the month the medical service was received or expected to be received or the month of application for categorically needy cases in which a medical service has not been received. The period of certification may cover not be for retroactive or future months. For children in DHS custody who are placed outside the home, the certification period on the computer input record will show 99 months.~~ The certification period in family cases is assigned for the shortest period of eligibility determined for any individual in the case. However, the individual who is categorically needy and categorically related to pregnancy-related services retains eligibility for the period covering prenatal, delivery and postpartum periods without regard to other certification periods in the case.

(1) **Certification as categorically needy a TANF (cash assistance) recipient.** A categorically needy individual who is determined eligible for TANF is certified effective the first day of the month of TANF eligibility application. ~~If the individual is eligible for payment for medical services received during the three months preceding the month of application, the application for Health Benefits is processed as a Medical Assistance~~

~~Only case. A copy of the application form and documentation of all eligibility factors is placed in the Medical Assistance case record if processed after the TANF case has been certified. A categorically needy individual who is not being certified for TANF is assigned a certification period according to categorical relationship. The first month of certification is the month that a medical service was provided or, if no medical service was provided, the month of application. A child in DHS custody or Indian Tribal custody (under Foster Care agreement with DHS) who is determined eligible, is certified effective the month custody was granted.~~

(A2) **Certification of non-cash assistance individuals categorically needy and categorically related to AFDC.** The certification period for the individual categorically related to AFDC is six months. ~~If the individual had a medical service within three months prior to the application date, the certification period may include one, two, or three months plus the six months, not to exceed a period of nine months. The individual must be determined as categorically needy for each month of the certification period. If the application includes one, two, or three of the months prior to the date of application and if in any of those months the individual is not categorically needy, a second application is required for continuous benefits. The certification period can be less than six months if the individual:~~

(iA) is certified as eligible in a money payment case during the six-month period;

(iiB) is certified for long-term care during the six-month period;

(iiiC) becomes ineligible for medical assistance after the initial month; or

(ivD) becomes ineligible as categorically needy.

(B) **Certification period.** ~~If the certification period was determined as six to nine months and any of the situations listed in subparagraph (A) of this paragraph occur after the initial month, the case is closed by the worker.~~

(i) If an income change after certification causes the case to exceed the categorically needy maximums, the case is closed. If medical services are required, a reapplication must be made to determine eligibility as medically needy.

(ii) Individuals, however, who are determined pregnant and eligible as categorically needy continue to be eligible for pregnancy-related services through the prenatal delivery and postpartum period, regardless of income changes. A pregnant individual included in a TANF case which closes continues to be eligible for pregnancy related services through the postpartum period.

(C3) **Certification of individuals categorically needy and categorically related to pregnancy-related services.** The certification period for the individual categorically related to pregnancy-related services will cover the prenatal, delivery and postpartum periods. The postpartum period is defined as the two months following

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the month the pregnancy ends. ~~The first month of the certification is the earliest month a medical service was received. Certification cannot be earlier than the first day of the third month prior to the month of application.~~ Eligibility as categorically needy is based on the income received in the first month of the certification period. No consideration is given to changes in income after certification.

~~(D4)~~ **Certification of newborn child deemed eligible.**

~~(iA)~~ There are two circumstances that a newborn child is deemed eligible on the date of birth for Medicaid benefits. For purposes of this subparagraph, a newborn child is defined as any child under the age of one year.

~~(i)~~ The first circumstance is when a child is born to a woman who is eligible for pregnancy-related services as categorically needy. The newborn child is deemed eligible, as categorically needy, through the last day of the month the newborn child attains the age of one year. The newborn child's eligibility is not dependent on the mother's continued eligibility. The mother's coverage may expire at the end of the postpartum period; however, the newborn child is deemed eligible until age one. The newborn child's eligibility is based on the original eligibility determination of the mother for pregnancy-related services, and consideration is not given to any income or resource changes that occur during the deemed eligibility period.

~~(ii)~~ The second circumstance is when a child is born to a woman who is eligible for pregnancy-related services as medically needy. In this instance, see OAC ~~317:35-7-60(a)(2)(D)(i)(II)~~ 317:35-7-60-(b)(2)(D)(i)(II).

~~(iiB)~~ In both instances, the newborn child is deemed eligible for Medicaid only as long as he/she continues to live in Oklahoma with the mother. No other conditions of eligibility are applicable, including social security number enumeration and child support referral. However, it is recommended that social security number enumeration be completed as soon as possible after the newborn child's birth. It is also recommended that a child support referral be completed, if needed, as soon as possible and sent to DHS Child Support Enforcement Division (CSED). The referral enables Child Support Services to be initiated.

~~(iiC)~~ During the original eligibility determination process for pregnancy-related services, the worker informs the mother that the newborn child will be deemed eligible on the date of birth. The mother is also advised of the importance of her reporting the newborn child's birth immediately so deeming can be done timely.

~~(ivD)~~ When a categorically needy newborn child is deemed eligible for Medicaid, he/she is added for a certification period of 13 months. The certification

period expires at the end of the month that the newborn child reaches age one. The certification period is shortened only in the event the child:

- ~~(i)~~ leaves the mother's home;
- ~~(ii)~~ loses Oklahoma residence;
- ~~(iii)~~ has medical needs included in another assistance case; or
- ~~(iv)~~ his/her death expires.

~~(E)~~ A newborn child cannot be deemed eligible when the mother's only coverage was presumptive eligibility, and continued eligibility was not established.

~~(2)~~ **Certification procedures for a family case.** Each individual to be included in a family case is coded on the computer input document with the appropriate categorical relationship and whether categorically or medically needy. Family cases may contain individuals who are categorically related to different categories and may include individuals who are categorically needy and others who are medically needy. If all individuals in the case are categorically needy, the countable income is shown on a monthly basis for each individual. If the family case has a combination of categorically needy and medically needy individuals, the case is handled as medically needy (see OAC 317:35-7-60(a)(5)(A)(ii)).

SUBCHAPTER 7. MEDICAL SERVICES

PART 7. CERTIFICATION, REDETERMINATION AND NOTIFICATION

317:35-7-60. Certification for Medical Services

(a) The rules in this Section apply to all categories of eligibles EXCEPT:

- (1) categorically needy SoonerCare Health Benefit recipients who are categorically related to AFDC or Pregnancy Related Services, AND
- (2) who if eligible, would be enrolled in SoonerCare (managed care).

(b) An individual determined eligible for Medical Services may be certified for a medical service provided on or after the first day of the third month prior to the month of application. The certification period is determined beginning with the month the medical service was received or expected to be received or the month of application for categorically needy cases in which a medical service has not been received. The period of certification may cover retroactive or future months. Assignment of the certification period is dependent on the categorical relationship and whether the individual is categorically or medically needy. Form MA-2, Medical Assistance Computation Work Sheet, is used to determine the certification period. Children in DHS custody who are placed outside the home are assigned a certification period according to categorical relationship, 6 months for AFDC and 12 months for ABD. ~~Although "medical eligibility number of months" on the computer input record will show 99 months, redetermination of~~

eligibility is completed according to the categorical relationship. The certification period in family cases is assigned for the shortest period of eligibility determined for any individual in the case.

(1) **Certification as categorically needy.** A categorically needy individual who is determined eligible for a State Supplemental Payment is certified effective the month of application. If the individual is eligible for payment for medical services received during the three months preceding the month of application, the application for Medicaid is processed in as a Medical Assistance Only case. ~~A copy of the application form and documentation of all eligibility factors is placed in the Medical Assistance case record if processed after the SSP has been certified.~~ A categorically needy individual who is categorically related to ABD but is not being certified for SSP is assigned a certification period of six months. The first month of certification is the month that a medical service was provided or, if no medical service was provided, the month of application. A child in DHS custody or Indian Tribal custody (under Foster Care agreement with DHS) who is determined eligible, is certified effective the month custody was granted. There is not a spenddown on a case certified as categorically needy.

(A) **Certification of individuals categorically needy and categorically related to ABD.** The certification period for the individual categorically related to ABD can be assigned for up to six months. The individual must be determined as categorically needy for each month of the certification period. The individual cannot be certified as categorically needy if he/she is medically needy during one month of the first three months of the certification period. The certification period is six months unless the individual:

- (i) is certified as eligible in a money payment case during the six-month period;
- (ii) is certified for long-term care during the six-month period;
- (iii) becomes ineligible for medical assistance after the initial month;
- (iv) becomes ineligible as categorically needy; or
- (v) is deceased.

(B) **Certification period.** If the certification period was determined as six months and any of the situations listed in subparagraph (A) of this paragraph occur after the initial month, the case is closed by the worker.

- (i) If income and/or resources change after certification causing the case to exceed the categorically needy maximums, the case is closed. If medical services are required, a reapplication must be made to determine eligibility as medically needy.
- (ii) A pregnant individual included in an ABD case which closes continues to be eligible for pregnancy related services through the postpartum period.

(2) **Certification as medically needy.** The certification period for medically needy individuals is determined beginning with the month that the medical service was received or is expected to be received with the certification period assigned in accordance with subparagraph (A) of this paragraph. In a family case where some individuals are medically needy and others are categorically needy, the medically needy individuals are certified only if a medical service has been received or is expected to be received by at least one of the medically needy individuals.

(A) **Certification period.**

(i) The certification period for medically needy individuals is three months unless the individual is:

- (I) certified as eligible in a money payment case during the three-month period;
- (II) certified for long-term care during the three-month period;
- (III) ineligible for medical assistance after the initial month;
- (IV) certified as eligible for the Catastrophic Illness Program, which is a 12-month certification; or
- (V) deceased.

(ii) If the certification period was determined as three months and any of the situations in (i) of this subparagraph occurs after the initial month, the case is closed by the worker.

(B) **Spenddown computation period.** For medically needy cases, spenddown for the certification period is computed based on a spenddown computation period. The spenddown computation period is three months except as given in unit (i) of this subparagraph. All income, maintenance standards and medical expenses are totaled for all family members for the spenddown computation period to determine the spenddown for the entire certification period.

(i) The spenddown computation period may be less than three months only if:

- (I) the individual is certified for long-term care;
- (II) the individual is certified for a money payment after the initial month;
- (III) monthly income, medical expenses and maintenance standard have already been considered in a spenddown computation for another certification period;
- (IV) the individual is certified for coverage of a catastrophic illness, which has a monthly spenddown computation period; or
- (V) the individual is deceased.

(ii) The first month of the spenddown computation period will be the first month of the certification period. If that month was included in a previous computation, the spenddown computation of income, maintenance standards and medical expenses will include only the amounts not previously considered.

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- (iii) The spenddown computation period may include months which are not included in the certification period if ineligibility is determined for any month in the certification period.
- (iv) A case which is determined medically needy for any month during the computation period is considered medically needy for the entire certification period.

(C) **Certification of individuals medically needy and categorically related to pregnancy-related services.** Federal legislation requires that Medicaid eligibility be extended two months for postpartum care to the woman determined eligible as medically needy.

(i) Criteria for this extended coverage is as follows:

(I) To be eligible for the extended coverage, application for Medicaid must have been filed prior to the end of the pregnancy and the case was Medicaid eligible for the month that pregnancy ended.

(II) The extended eligibility is for two months after the month that pregnancy ends by delivery, miscarriage or federally-funded induced abortion.

(ii) The individual who meets the criteria in (i) of this subparagraph is deemed eligible without regard to income and a spenddown is not computed for the extended eligibility period.

(iii) During this special extended eligibility period, the individual is eligible for the full scope of Medicaid services. The special extended medical provision does not apply if the individual is determined eligible for Medicaid benefits for reasons other than postpartum care since postpartum services would be covered under the Medicaid eligibility.

(iv) When eligibility for extended medical services for postpartum care is determined, the case is recertified (a new application is not required) using the same application date. The certification date for the extended eligibility period, not to exceed two months, is determined based on the expiration of the ~~Title XIX~~ Medicaid certification.

(v) The procedure for recertification of the mother is handled through the Medical Authorization File and will issue computer generated notices to the client and provider, if known.

(D) **Certification of newborn child deemed eligible.**

(i) There are two circumstances that a newborn child is deemed eligible on the date of birth for Medicaid benefits. For purposes of this subparagraph, a newborn child is defined as any child under the age of one year.

(I) The first circumstance is when a child is born to a woman who is eligible for pregnancy-related services as categorically needy

(see ~~OAC 317:35-6-60(1)(D)(i)(4)~~). In this instance, see OAC 317:35-6-60(4)(A)(i).

(II) The second circumstance is when a child is born to a woman who is eligible for pregnancy-related services as medically needy. The newborn child is deemed eligible, as medically needy, through the last day of the month that the child attains the age of one year, as long as the mother remains eligible for Medicaid. The newborn child is added to the mother's case prior to the expiration of the postpartum period.

(ii) In both instances, the newborn child is deemed eligible for Medicaid benefits only as long as he/she continues to live in Oklahoma with the mother. No other conditions of eligibility are applicable, including social security number enumeration and child support referral. However, it is recommended that social security number enumeration be completed as soon as possible after the newborn child's birth. It is also recommended that a child support referral be completed, if needed, as soon as possible and sent to DHS Child Support Enforcement Division (CSED). The referral enables Child Support Services to be initiated.

(iii) During the original eligibility determination process for pregnancy-related services, the worker informs the mother that the newborn child will be deemed eligible on the date of birth. The mother is also advised of the importance of her reporting the newborn child's birth immediately so deeming can be done timely.

(iv) In medically needy cases, the certification period may be shortened if the mother loses her Medicaid eligibility, as well as in the event the newborn child:

- (I) leaves the mother's home;
- (II) loses Oklahoma residence;
- (III) has medical needs included in another assistance case; or
- (IV) ~~his/her death expires.~~

(v) A newborn child cannot be deemed eligible when the mother's only Medicaid coverage was presumptive eligibility, and continued Medicaid eligibility was not established.

(3) **Certification of individuals categorically related to ABD and eligible as Qualified Medicare Beneficiaries Plus.** ~~The effective date of certification for QMBP benefits is the first day of the month following the month in which the eligibility determination is made (regardless of when application was made).~~ In the event of an a SSP case, the effective date of the QMBP benefit is the month of certification. If the individual is not eligible for SSP, the ~~Title XIX~~ Medicaid benefit, except for the Medicare Part B premium buy-in, may be certified on the first day of the third month prior to the month of application or later. The effective date of certification for the Medicare Part B premium buy-in is the first day of the month following

the month in which the eligibility determination is made (regardless of when application was made).

(A) An individual determined eligible for QMBP benefits is assigned a certification period of 12 months. At any time during the certification period that the individual becomes ineligible, the case is closed using regular negative action procedures.

(B) At the end of the certification period a redetermination of QMBP eligibility is required, using the same forms and procedures as for ABD categorically needy individuals ~~who receive a State Supplemental Payment~~. However, a redetermination of QMBP eligibility must also be done at the same time the dually eligible individual has a redetermination of eligibility for other Medicaid benefits, i.e., as categorically needy and receiving SSP or as a long-term care recipient.

(4) **Certification of individual categorically related to ABD and eligible as Qualified Disabled and Working Individual.** The Social Security Administration is responsible for referrals of individuals potentially eligible for QDWI. Eligibility factors verified by the SSA are Medicare Part A eligibility and discontinuation of disability benefits due to excessive earnings. When the DHS State Office receives referrals from SSA the county will be notified and is responsible for obtaining an application and establishing other factors of eligibility. If an individual contacts the county office stating he/she has been advised by SSA that they are a potential QDWI, the county takes a Medicaid application. If the individual does not have verification of eligibility factors determined by SSA, the county contacts DHS, FSSD, State Office, for assistance in verifying those factors. The verification will be obtained by DHS State Office and sent to the county office. The effective date of certification for QDWI benefits is based on the date of application and the date all eligibility criteria, including enrollment for Medicare Part A, are met. For example, if an individual applies for benefits in October and is already enrolled in Medicare Part A, eligibility can be effective October 1 (or up to three months prior to October 1, if all eligibility criteria are met during the three month period). However, if in the example, the individual's enrollment for Part A is not effective until November 1, eligibility cannot be effective until that date. Eligibility can never be effective prior to July 1, 1990, the effective date of this provision. These cases will be certified for a period of 12 months. At the end of the 12-month period, eligibility redetermination is required. If the individual becomes ineligible at any time during the certification period, the case is closed. The reason for closure is 69, and the worker completes the Notice to Client form.

~~(5) **Certification procedures for a family case.** Each individual to be included in a family case is coded on the computer input document with the appropriate categorical relationship and whether categorically or medically needy. Family cases may contain individuals who are categorically related to different categories and may include individuals who are categorically needy and others who are~~

medically needy. The following procedures are used when establishing a family case:

~~(A) **Procedures for coding income on the computer form.**~~

~~(i) If all individuals in the case are categorically needy, the countable income and resources are shown on a monthly basis for each individual.~~

~~(ii) If all individuals are medically needy, each individual's income is shown as the total amount for the months of the spenddown computation period from Form MA-2,II,B.~~

~~(iii) If the family case has a combination of categorically needy and medically needy individuals, the case is handled as medically needy and income shown as in unit (ii) of this subparagraph.~~

~~(B) **Procedures for certifying a case with multiple categorical relationships and containing both categorically needy and medically needy individuals.** If the family case includes an individual(s) who is determined categorically needy and:~~

~~(i) other family members are medically needy with no medical services needed, the case is certified with only the categorically needy individuals added. The medically needy individuals are coded on the case as not included in the benefit (coded with letter "O" in F25) but income and resources for those categorically related to ABD are considered.~~

~~(ii) other family members are medically needy and at least one requires services, the case is certified for both the categorically needy individuals and the medically needy individuals with the certification period assigned according to (2)(A) of this subsection. When the certification period expires but a categorically needy individual in the case is categorically related to pregnancy-related services, the computer input form is updated for the remaining period of coverage for the pregnancy-related services. The medically needy individuals continue to be shown on the family case but are not included in the benefit.~~

~~(iii) other family members are medically needy and have a medical service after certification of only the categorically needy individuals, a new application is not required. The addition of the medically needy individual(s) is handled by verifying all eligibility factors and updating the application form in red. The application date is retained but the certification date and certification period are updated on the computer. The certification period is assigned based on the rules in (2)(A) of this subsection. When the certification period expires but a categorically needy individual in the case is categorically related to pregnancy related services, the computer input form is updated for the remaining period of coverage for the pregnancy related services. The medically needy individuals continue~~

to be shown on the family case but are not included in the benefit.

(65) **Certification of Individual Categorically Related to ABD and Eligible as Specified Low-Income Medicare Beneficiary (SLMB).** The effective date of certification of SLMB benefits may begin on the first day of the third month prior to the month of application or later. A certification can never be earlier than the date of entitlement of Medicare Part A. An individual determined eligible for SLMB benefits is assigned a certification period of 12 months. At any time during the certification period the individual becomes ineligible, the case is closed using standard negative action procedures. At the end of the certification period a redetermination of SLMB eligibility is required. A redetermination of SLMB eligibility must also be done at the same time a dually eligible individual has a redetermination of eligibility for other Medicaid benefits such as long-term care.

(76) **Certification of individuals categorically related to disability and eligible for TB related services.**

(A) An individual determined eligible for TB related services may be certified ~~three months~~ the first day of the third month prior to the month of application ~~was made or later~~, as long as verification is received of a diagnosis of TB infection.

(B) A certification period of 12 months will be assigned. At any time during the certification period that the individual becomes ineligible, the case is closed using the regular negative action procedures.

(C) At the end of the certification period a new application will be required if additional treatment is needed.

(87) **Certification of Individual Categorically Related to ABD and Eligible as Qualifying Individuals.**

(A) **Qualifying Individuals-1.** The effective date of certification for the QI-1 may begin on the first day of the third month prior to the month of application or later. A certification can never be earlier than the date of entitlement of Medicare Part A. An individual determined eligible for QI benefits is assigned a certification period of 12 months. At any time during the certification period the individual becomes ineligible, the case is closed using standard negative action procedures. At the end of the certification period, a redetermination of QI eligibility is required.

(i) Since the State's allotment to pay Medicare premiums for this group of individuals is limited, the State must limit the number of QIs so that the amount of assistance provided during the year does not exceed the State's allotment for that year.

(ii) Persons selected to receive assistance in a calendar year are entitled to receive assistance with their Medicare premiums for the remainder of the year, but not beyond, as long as they continue to qualify. The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year.

(B) **Qualifying Individuals-2.** The effective date of certification for the QI-2 individual is the first day of the month in which eligibility is established. The certification is a one time payment consisting of the total number of months in the calendar year in which the individual was not covered by Medicaid. The payment is the amount attributable to the shift of some home health benefits from Medicare Part A to Medicare Part B.

(i) Since the State's allotment for Qualifying Individuals is capped, the State must limit the number of QIs so that the amount of assistance provided during the year does not exceed the State's allotment for that year.

(ii) The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year.

[OAR Docket #03-306; filed 2-25-03]

(format accepted 2-25-03)

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

[OAR Docket #03-305]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 17. ADvantage Waiver Services
317:35-17-22. [AMENDED]
(Reference APA WF # 02-23B)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 1619b of the Social Security Act

DATES:

Adoption:

December 12, 2002

Approved by Governor:

January 30, 2003

Effective:

Immediately upon Governor's approval or February 1, 2003, 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 revisions to Medical Assistance for Adults and Children-Eligibility, ADvantage Waiver Services specific, rules to reduce the number of denied ADvantage provider claims. A benefit of the prior authorization process will be to identify problems related to consumer eligibility at the beginning of the service delivery authorization rather than to discover problems only after the ADvantage providers' claims are denied. Revisions reduce unnecessary burdens on providers by reducing timely reimbursement delays.

ANALYSIS:

Medical Assistance for Adults and Children-Eligibility, ADvantage Waiver Services specific, rules are being revised to require MMIS prior authorization for all ADvantage service plan approved services. Existing rules allow the Administrative Agent (Long-Term Care Authority of Tulsa) to prior authorize only a subset of ADvantage services on the MMIS prior authorization file. Policy revisions allow the Administrative Agent to post, via electronic files generated from approved service plan or service plan updated records on the Waiver Management Information Systems, the prior authorizations to the MMIS. A benefit of the prior authorization process will be to identify problems related to consumer eligibility at the beginning of the service delivery authorization rather than to discover problems only after the ADvantage providers' claims are denied. The revision are needed to reduce reimbursement delays through more timely resolution of eligibility related issues and a reduction in the number of denied provider claims. An additional revision will identify certain ADvantage services and associate them with other established Medicaid or State funded services as those services' rate setting methodologies are currently used to determine the ADvantage service rates since the providers must have the equivalent qualifications to provide both services.

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 FEBRUARY 1, 2003, WHICHEVER IS LATER:

SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES

317:35-17-22. Billing procedures for ADvantage services

(a) Billing procedures for long-term care medical services are contained in the Provider Manuals. Questions regarding billing procedures which cannot be resolved through a study of these manuals should be referred to the OHCA.

(b) ~~The certified AA approved ADvantage service plan authorizes services is the basis for the MMIS service prior authorization, specifying:~~

- (1) service;
- (2) service provider;
- (3) units authorized; and
- (4) begin and end dates of service authorization.

(c) ~~The AA prior authorizes on the MMIS prior authorization file the following ADvantage services:~~

- (1) ~~Medical Equipment and Supplies;~~
- (2) ~~Environmental Modifications;~~
- (3) ~~Nursing Facility Respite; and~~
- (4) ~~Hospice Services.~~

(d) ~~As part of ADvantage quality assurance audits, the AA provider audits are used to evaluate whether paid claims are consistent with service plan authorizations and documentation of service provision for services that are not prior authorized through the MMIS. Evidence of paid claims~~

that are not supported by service plan authorization and/or documentation of service provision will be turned over to SURS for follow-up investigation.

*[OAR Docket #03-305; filed 2-25-03]
(format accepted 2-25-03)*

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS**

[OAR Docket #03-303]

RULEMAKING ACTION:

EMERGENCY adoption.

RULES:

Subchapter 5. Regulation of Practice
435:20-5-9. Standards of Ethics and Professional Conduct [NEW]

AUTHORITY:

Title 59 O.S., Section 887.5, Board of Medical Licensure and Supervision

DATES:

Adoption:

January 16, 2003

Approved by Governor:

February 19, 2003

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2004 unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Physical Therapy Law refers to practicing within the ethics of the profession (Title 59 O.S. §§887.13(10)). At this time, there are no rules defining ethics.

ANALYSIS:

This new rule defines the standards of ethics and professional conduct for licensed physical therapists and physical therapist assistants. The American Physical Therapy Association and the Oklahoma Respiratory Care Practice Act were used as sources in the development of these standards.

CONTACT PERSON:

Jan Ewing, Deputy Director, 405-848-6841, ext. 104

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. REGULATION OF PRACTICE

435:20-5-9. Standards of Ethics and Professional Conduct

In the conduct of their professional activities, the physical therapist and physical therapist assistant shall be bound by the following ethical and professional principles. Physical therapists and physical therapist assistants shall:

- (1) Respect the rights and dignity of all individuals and shall provide compassionate care.

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- (2) Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and its professionals.
- (3) Comply with state and/or federal laws that govern and relate to physical therapy practice.
- (4) Exercise sound professional judgment and perform only those procedures or functions in which they are individually competent and that are within the scope of accepted and responsible practice. A physical therapist shall not delegate to a less qualified person any activity that requires the unique skill, knowledge, and judgment of the physical therapist. A physical therapist assistant shall provide selected physical therapy interventions only under the supervision and direction of the evaluating physical therapist. A physical therapist assistant shall make judgments that are commensurate with their education and legal qualifications as a physical therapist assistant.
- (5) Actively maintain and continually improve their professional competence and represent it accurately.
- (6) Maintain high standards by following sound scientific procedures and ethical principles in research and the practice of physical therapy.
- (7) Seek reasonable remuneration for physical therapy practice.
- (8) Provide and make available accurate and relevant information to patients about their care and maintain patient confidentiality.
- (9) May provide information to the public about societal benefits of physical therapy services. A physical therapist may advertise his/her services to the public.
- (10) Refuse to participate in illegal or unethical acts, and shall refuse to conceal illegal, unethical or incompetent acts of others.
- (11) Endeavor to address the health needs of society through pro bono services and/or community health services.
- (12) Respect the rights, knowledge and skills of colleagues and other healthcare professionals.

[OAR Docket #03-303; filed 2-24-03]
(format accepted 2-26-03)

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

[OAR Docket #03-352]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions

450:15-1-2. [AMENDED]

Subchapter 3. Consumer Rights

Part 1. Inpatient Bill of Rights

450:15-3-20. [REVOKED]

450:15-3-20.1 [NEW]

Part 7. Consumer Access to Health Information [NEW]

450:15-3-60 [NEW]

450:15-3-61 [NEW]

450:15-3-62 [NEW]

450:15-3-63 [NEW]

450:15-3-64 [NEW]

450:15-3-65 [NEW]

450:15-3-66 [NEW]

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 2-102, 2-108, 2-109, 2-219, 2-220, 3-306, 5-201 and 5-204

DATES:

Adoption:

January 10, 2003

Approved by Governor:

February 27, 2003

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2004, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The federally mandated Health Insurance Portability and Accountability Act (HIPAA) requires health care providers to implement additional security and privacy initiatives relative to individuals' health information by April 1, 2003. Non-compliance with HIPAA may result in monetary penalties. These rule revisions are needed to timely bring ODMHSAS into compliance with HIPAA and avoid monetary penalties.

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 15 are part of the Department's review of Title 450 and are intended to bring ODMHSAS into compliance with HIPAA requirements regarding standards addressing the privacy and security of confidential consumer health information.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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

SUBCHAPTER 1. GENERAL PROVISIONS

450:15-1-2. Definition

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by a caretaker responsible for the consumer's health, safety, or welfare, including but not limited to:

- (A) non-accidental physical injury or mental anguish;
- (B) sexual abuse;
- (C) sexual exploitation;
- (D) use of mechanical restraints without proper authority;
- (E) the intentional use of excessive or unauthorized force aimed at hurting or injuring the consumer; or

(F) deprivation of food, clothing, shelter, or health-care by a caretaker responsible for providing these services to a consumer.

"Advocacy Division" means the division of the Oklahoma Department of Mental Health and Substance Abuse Services responsible for providing assistance to consumers in exercising their rights and investigating allegations of rights violations.

"Advocate" means an employee who provides assistance to consumers in exercising their rights, listens to their concerns, encourages them to speak for themselves, seeks to resolve problems, helps protect their rights, and seeks to improve the quality of their life and care.

"Advocate General" means the chief administrative officer of the ODMHSAS Advocacy Division.

"Board" means Board of Directors of Oklahoma Department of Mental Health and Substance Abuse Services.

"Caretaker" means an agent or employee of a public or private institution or facility responsible for the care of a consumer.

"Consumer" means an individual receiving services (evaluation or treatment) from a facility operated or certified by ODMHSAS or with which ODMHSAS contacts [43A O.S. § 1-103(g)] and includes all persons referred to in OAC Title 450 Chapters 16, 17, 18, 19 and 23 as client(s) or patient(s) or resident(s) or a combination thereof.

"Correctional Institution" means any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense, or other persons held in lawful custody. Other persons held in lawful custody includes juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.

"Department" means the Oklahoma Department of Mental Health and Substance Abuse services.

"Designated record set" means health information, in any medium including paper, oral, video, electronic, film, audio and digital, maintained by or for facilities operated by ODMHSAS for the purpose, in whole or in part, for making decisions about a consumer, that is:

(A) The medical records about a consumer including but not limited to the intake, screenings, assessments, history and physical examination, psychosocial evaluation, consultation report(s), treatment and continuing care plan, medication record(s), progress notes, psychometric/psychological testing results, discharge assessment, discharge plan, discharge summary, physician orders, immunization record(s), laboratory reports, ancillary therapy notes and reports, and case management records; or

(B) The eligibility, billing and payment information and minimum data sets maintained by or for the

facility. Records that are sometimes filed with the medical records but are not part of the designated record set include:

(C) Administrative records including court commitment paperwork, critical incident reports, peer review or utilization review documents; and

(D) Information compiled in anticipation of litigation.

"Exploitation" or **"exploit"** means an unjust or improper use of the resources of a consumer for the profit or advantage, pecuniary or otherwise, of a person other than the consumer through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense.

"Facility" means a public or private agency, corporation, partnership, or other entity operated or certified by ODMHSAS or with which ODMHSAS contacts for the physical custody, detention or treatment of consumers.

"Guardian" means a person appointed by a court to ensure the essential requirements for the health and safety of an incapacitated or partially incapacitated person, the unit, are met, to manage the estate or financial resources of the unit, or both. As used in this subchapter, guardian includes a general or limited guardian of the person, a general or limited guardian of the estate, a special guardian, and a temporary guardian.

"Incapacitated person" means:

(A) any person who is impaired by reason or mental or physical illness or disability, dementia or related disease, mental retardation, developmental disability, or other cause, and whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that the person lacks the capacity to manage financial resources or to meet essential requirements for mental or physical health or safety without assistance from others; or

(B) a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act.

"Licensed mental health professional" means:

(A) a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;

(B) a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;

(C) a licensed clinical psychologist,

(D) a licensed professional counselor as defined in Section 1906 of Title 59 of the Oklahoma Statutes;

(E) a person licensed as a clinical social worker pursuant to the provisions of Section 1250 et seq. of Title 59 of the Oklahoma Statutes;

(F) a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes;

(G) a licensed behavioral practitioner as defined in Section 1931 of Title 59 of the Oklahoma Statutes; or

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(H) an advanced practice nurse as defined in Section 567.3a of Title 59 of the Oklahoma Statutes specializing in mental health.

"**Maltreatment**" is used collectively in this Subchapter to refer to abuse, neglect, exploitation, mistreatment, sexual abuse or exploitation, and rights violation.

"**Minor**" means any person under the age of 18 years except any person convicted of a crime specified in Section 7306-1.1 of Title 10 of the Oklahoma Statutes or any person who has been certified as an adult pursuant to Section 7303-4.3 of Title 10 and convicted of a felony.

"**Mistreatment**" means an act or omission that:

- (A) violates a statute, regulation, written rule, procedure, directive, or accepted professional standards and practices;
- (B) does not rise to the level of abuse or neglect;
- (C) results in or ~~creates~~ creates the risk of injury to a consumer; or
- (D) unintentional excessive or unauthorized use of force.

"**Neglect**" means:

- (A) the failure of a caretaker to provide adequate food, clothing, shelter, medical care, and supervision which includes, but is not limited to, lack of appropriate supervision which results in sexual activity between consumers;
- (B) the failure of a caretaker to provide special care made necessary by the physical or mental condition of the consumer;
- (C) the knowing failure of a caretaker to provide protection for a consumer who is unable to protect his or her own interest; or
- (D) caretaker knowingly causing or permitting harm or threatened harm through action or inaction which has resulted or may result in physical or mental injury.

"**OJA**" means the Office of Juvenile Affairs of the State of Oklahoma.

"**Privacy Officer**" means the employee of ODMHSAS designated to provide guidance on state and federal privacy laws.

"**Sexual Abuse**" means any sexual contact prohibited by state law, including:

- (A) rape, incest, or lewd and indecent acts or proposals, as defined by state law, by a caretaker responsible for the health, safety, or welfare of the consumer;
- (B) oral, anal, or vaginal penetration of a consumer by or union with the sexual organ of a caretaker or other person providing services to the consumer;
- (C) the anal or vaginal penetration of a consumer by a caretaker or other person providing services to the consumer with any other object; or
- (D) for the purpose of sexual gratification, the touch, feeling or observation of the body or private parts of a consumer by a caretaker or other person providing services to the consumer; or

(E) indecent exposure by a caretaker or other person providing services to the consumer.

"**Sexual exploitation**" with regard to consumer includes, but is not limited to:

- (A) allowing, permitting, or encouraging a consumer to engage in sexual acts with others or prostitution, as defined by state law, by a caretaker responsible for the consumer's health, safety, or welfare; or
- (B) allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a consumer in those acts as defined by state law, by a caretaker responsible for the consumer's health, safety, or welfare.

"**Verbal Abuse**" means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors by a caretaker or other person providing services to a consumer that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation.

SUBCHAPTER 3. CONSUMER RIGHTS

PART 1. INPATIENT BILL OF RIGHTS

450:15-3-20. Rights regarding release of consumer related information either contained in the medical record or otherwise held by the facility [REVOKED]

~~(a) Consumer related information held by facilities which are either contained in the treatment record, or which would identify a specific consumer by name, including but not limited to census forms, consumer financial account records, receipts, insurance forms, Medicaid/Medicare forms, are confidential and privileged (43A O.S. §§ 1-109, 3-422, 3-423; 76 O.S. § 19; 63 O.S. § 1-502.2) and additional confidentiality protections are present for consumers being treated for substance abuse (Federal Regulations, 42 C.F.R., Part 2). Therefore, information regarding consumers cannot be released without the written permission of the consumer or legal guardian, except as provided under state and federal law.~~

~~(b) The specific conditions for a consumer to grant the release of confidential information about him or herself requires:~~

- ~~(1) Use of a specific form; and~~
- ~~(2) The release shall be to a specific person or entity; and~~
- ~~(3) The specific reason for the release; and~~
- ~~(4) The information which shall be released; and~~
- ~~(5) The time limit of the validity of the consent to release; and~~
- ~~(6) That consumer information is confidential and en-joins certain standards and federal procedures;~~
- ~~(7) Prohibition against redisclosure;~~
- ~~(8) Consumer's signature authorizing the release of the information; and~~
- ~~(9) The consumer being informed that services are not contingent upon, or influenced by his or her decision to permit the information release.~~

(e) There are, however, conditions and circumstances under which consumer information may be viewed or released without the consumer's consent or knowledge. These conditions include:

- (1) Accrediting or certifying or licensing groups/agencies such as the ODMHSAS, Health Care Finance Agency (U.S. Department of Health and Human Services), Oklahoma Department of Human Services, as the state Medicaid agency, Joint Commission on Accreditation of Health Care Organizations, Council on Accreditation of Rehabilitation Facilities, American Osteopathic Association, Oklahoma Department of Health, which review some individual consumer records as a part of the accrediting or certification or payment or licensing process.
- (2) The order for release of consumer information by a court of competent jurisdiction.
- (3) Between and among facilities operated by ODMHSAS or facilities under contract with ODMHSAS which have executed a Qualified Service Agreement (43A O.S. §1-109 and 63 O.S. §1-1502.2); however, such release is limited to the minimum information needed to initiate and/or continue treatment.
- (4) The consumer is not competent and a guardian has been appointed by a court of competent jurisdiction.
- (5) A statutory requirement such as reporting: child abuse (21 O.S. §§ 843 through 848 and Oklahoma Administrative Code Title 310), elderly or incapacitated adult abuse (43A O.S. §10-101 et seq.), reporting of communicable diseases to an outside entity (63 O.S. § 1-503).

450:15-3-20.1. Consumer rights regarding confidentiality of mental health and drug or alcohol abuse treatment information

- (a) All mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential. In addition, the identity of all consumers who have received or are receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged. Such information shall only be available to persons or agencies actively engaged in the treatment of the consumer unless an exception under state or federal law applies. The information available to persons or agencies actively engaged in the treatment of the consumer shall be limited to the minimum amount of information necessary for the person or agency to carry out its function or the purpose for the release.
- (b) A consumer or his or her legally authorized representative shall have the right to request access to the consumer's own mental health and drug or alcohol abuse treatment information as provided for in 450:15-3-60.
- (c) Unless an exception applies, all facilities operated by ODMHSAS will provide consumers with a copy of the ODMHSAS Notice of Privacy Practices.

PART 7. CONSUMER ACCESS TO HEALTH INFORMATION

450:15-3-60. Right to access designated record set from facilities operated by ODMHSAS

- (a) A consumer has a right to access his or her health information in the designated record set from facilities operated by ODMHSAS.
- (b) The process for requesting access to read or request copies of the designated record set from ODMHSAS facilities is as follows:
 - (1) The consumer shall obtain a Consent for Release of Confidential Information form from the facility's health information department, complete it and submit it to the facility's health information department director or designee. If the consumer requests a copy from the designated record set, the facility may charge the consumer a fee of twenty-five cents (\$0.25) per page for copying the information and the actual mailing expenses when applicable.
 - (2) If the facility does not possess the information the consumer requests but knows where it is maintained, the health information department shall inform the consumer where to direct the request.
 - (3) The health information department shall coordinate the request for access to the designated record set with the person in charge of the care and treatment of the consumer.

450:15-3-61. Denial of access to the designated record set from facilities operated by ODMHSAS

- (a) ODMHSAS may deny, in whole or in part, the designated record set under certain conditions. Some denials provide the consumer with a right to a review of the denial while others do not.
- (b) The consumer does not have a right of review for a denial of access if the denial is made on the following bases:
 - (1) If the facility is a correctional institution or acting under the direction of a correctional institution, and access to a copy of the information in the designated record set would jeopardize the health, safety, security, custody or rehabilitation of the consumer or other inmates, or the safety of any officer, employee or other person at the correctional institution or responsible for the transporting of the consumer.
 - (2) The information in the designated record set was obtained by the facility in the course of research that includes treatment of the research participants, while such research is in progress, provided the consumer has agreed to the denial of access in conjunction with the consumer's consent to participate in the research and the facility has informed the consumer the right of access will be reinstated upon completion of the research.
 - (3) The information in the designated record set was obtained under a promise of confidentiality from someone other than a health care provider and such access would be reasonably likely to reveal the source of the information.
- (c) The consumer has a right of review for a denial of access if the denial is made on the following bases:

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(1) A licensed mental health professional has determined, in the exercise of professional judgment, that access to the designated record set by the consumer is reasonably likely to endanger the life or physical safety of the consumer or another person;

(2) The requested designated record set makes reference to another person unless such other person is a health care provider and a licensed mental health professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or

(3) The request for access is made by the consumer's personal representative and a licensed mental health professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the consumer or another person.

(d) In lieu of providing access to the designated record set, the facility may provide the consumer with a summary of the requested information, if the consumer agrees in advance to such a summary.

450:15-3-62. ODMHSAS action on consumer's request for access

(a) ODMHSAS shall act on the request for access to the designated record set within the following time periods:

(1) If the requested information from the designated record set is readily available, the health information department shall inform the consumer within thirty (30) days of the receipt of the request of the approval or denial of the request; or

(2) If the requested information is not stored on the facility premises, the health information department shall inform the consumer within sixty (60) days from receipt of request of the approval or denial of the request.

(b) If the health information department is unable to provide response within these timeframes, it shall send a letter to the consumer, which shall inform the consumer of the delay and state the date by which a response to the request will be provided. The deadline can be extended for no more than 30 additional days and the facility may extend the deadline once per request for access.

(c) If a decision is made to deny the request for access, the health information department of the facility shall send the consumer a letter stating the basis of the denial and, if applicable, providing a statement of the consumer's right for review of the denial and how to exercise such review rights. The letter must also include a description of how the consumer may complain to the ODMHSAS Office of Consumer Advocacy or to the U.S. Secretary of the Department of Health and Human Services. The description must also include the name, or title and telephone number of the Office of Consumer Advocacy.

450:15-3-63. Consumer's request for review of denial of access

(a) If a facility denies a request for access to the designated record set on the basis of one of the grounds for denial for

which review is available, the consumer may initiate the review process by making a request for review of the denial in writing and submitting it to the ODMHSAS Privacy Officer at 1200 N.E. 13th Street, P.O. Box 53277, Oklahoma City, Oklahoma 73152-3277.

(b) The ODMHSAS Privacy Officer or designee shall select a licensed mental health professional, who did not participate in the original decision to deny access, to review the denial. This reviewer will complete the review within a reasonable period of time and forward his or her findings to the ODMHSAS Privacy Officer or designee. The reviewer's decision is final.

(c) The Privacy Officer shall promptly inform the consumer by letter of the outcome of the review.

(1) If a decision is made to grant access, the letter will explain the process to fulfill the request for access.

(2) If a decision is made to uphold the denial of access, the letter shall state the reasons for denial.

450:15-3-64. Right to request amendment of designated record set from facilities operated by ODMHSAS

Except as provided herein, a consumer has a right to request an amendment of his or her health information in the designated record set from facilities operated by ODMHSAS for as long as the facility maintains the information.

(1) A consumer shall request the amendment in writing to the health information department of the facility and provide a reason to support the requested amendment.

(2) The facility shall have sixty (60) days to act on the request to amend the information, unless the facility sends the consumer a letter within the initial sixty (60) day period stating the time period will be extended up to an additional thirty (30) days, explaining the need and reasons for delay and providing a date by which the consumer can expect a decision.

(3) If the facility agrees to the requested amendment, in whole or in part, it must:

(A) Make the amendment by, at minimum, identifying the affected records and appending or otherwise providing a link to the location of the amendment;

(B) Timely inform the consumer the amendment is accepted;

(C) Obtain the consumer's agreement to have the facility with which the amendment needs to be shared. Relevant persons include:

(i) Persons identified by the consumer as needing the amendment;

(ii) Persons the facility identifies as having relied or could foreseeably rely on the unamended information previously provided to them.

(D) Make reasonable efforts to inform and timely provide the amendment to those persons.

(4) The facility may deny a request for amendment if it determines that one of the following reasons exists:

(A) The information that is the subject of the request was not created by the facility, unless the consumer can provide a reasonable basis to believe that

the originator of the information is no longer available to act on the requested amendment.

(B) The information that is the subject of the request is not part of the designated record set;

(C) The information that is the subject of the request is accurate and complete.

(5) If the facility denies the amendment, in whole or part, it must:

(A) Provide the consumer with a timely denial, written in plain language and including:

(i) The basis for denial;

(ii) Notice of the consumer's right to submit a written statement of disagreement; and instructions on how to file the statement;

(iii) A statement that if the consumer does not submit a statement of disagreement, the consumer may request the facility provide the consumer's request for amendment and the denial with any future disclosures of the designated record set; and

(iv) Notice the consumer may complain about the decision to the ODMHSAS Office of Consumer Advocacy or to the U.S. Secretary of the Department of Health and Human Services;

(B) Permit the consumer to submit a one (1) page statement of disagreement;

(C) Provide a copy of any rebuttal prepared to the consumer;

(D) As appropriate, identify the part of the record subject to the disputed amendment and append or otherwise link the request, the denial, and any statement of disagreement or rebuttal to the record;

(E) For future disclosures of the designated record set, include any statement of disagreement or, in response to the consumer's request, the amendment request and the denial (or an accurate summary of either of the foregoing).

(6) If the facility is informed by a healthcare provider or health plan, such as an insurance company, about an amendment to a consumer's information in the designated record set, the facility must amend the information in its record by, at a minimum, identifying the affected records and appending or otherwise providing a link to the location of the amendment.

(7) The facility must document the titles of the persons or offices responsible for receiving and processing requests for amendments and maintain the list for a period of six (6) years.

450:15-3-65. Right to request confidential communications from facilities operated by ODMHSAS

(a) Facilities operated by ODMHSAS shall accommodate reasonable requests by a consumer to receive confidential communications from the facility by alternative means or at alternative locations.

(b) Alternative means may include contacting the consumer by telephone.

(c) Alternative locations may include an alternative address other than the consumer's home address.

(d) To request alternative communications, the consumer must provide the facility with the request in writing and specify the alternative means or location.

450:15-3-66. Right to an accounting of disclosures from facilities operated by ODMHSAS

Facilities operated by ODMHSAS must provide to consumers upon request an accounting of disclosures of health information in the designated record set as provided below:

(1) The consumer must make a written request to the facility's health information department director or ODMHSAS Privacy Officer.

(2) The facility must provide an accounting of disclosures made of the consumer's designated record set during a time period specified up to six (6) years prior to the date of the request for an accounting except for disclosures:

(A) To carry out treatment, payment or health care operations as permitted under law;

(B) To the consumer about his or her own information;

(C) Authorized by the consumer;

(D) To persons involved in the consumer's care or other notification purposes permitted under law;

(E) For national security or intelligence purposes;

(F) To corrections officials or law enforcement officials as permitted under law; or

(G) That are a part of a limited data set;

(H) That are merely incidental to another permissible use or disclosure;

(I) Which were made before April 14, 2003;

(J) In certain circumstances involving health oversight, a facility may temporarily suspend the consumer's right to receive an accounting of disclosures.

(3) The accounting for disclosure must contain the following information for each disclosure:

(A) Date of disclosure;

(B) Name of entity or person who received the information, and, if known, the address of such entity or person;

(C) A brief description of the information from the designated record set disclosed; and

(D) The purpose for which the disclosure was made;

(4) If during the time period for the accounting, multiple disclosures have been made to the same person or entity for a single purpose, or pursuant to a single authorization, the accounting may provide information as set forth above for the first disclosure and then summarize the frequency, periodicity or number of disclosures made during the accounting period and the date of the last such disclosure during the accounting period.

(5) The facility shall have sixty (60) days to act on the request for accounting of disclosures, unless the facility sends the consumer a letter within the initial sixty (60) day period extending the period for no more than an additional

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thirty (30) days. The letter shall explain the reasons for delay and the date on which the accounting will be provided.

(6) The first accounting in any twelve (12) month period must be provided to the consumer without charge. A reasonable, cost-based fee may be charged for additional accountings within the twelve (12) month period, provided the consumer is informed in advance of the fee and is permitted an opportunity to withdraw or amend the request.

(7) The facility must document the following:

(A) All information required to be included in an accounting of disclosures of information from the designated record set;

(B) All written accountings provided to consumers; and

(C) Titles of persons or offices responsible for receiving and processing requests for an accounting from consumers.

*[OAR Docket #03-352; filed 3-5-03]
(format accepted 3-6-03)*

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 16. STANDARDS AND CRITERIA FOR RESIDENTIAL CARE FACILITIES

[OAR Docket #03-353]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 17. Security and Disclosure of Resident Information

450:16-17-1 [AMENDED]

450:16-17-3 [REVOKED]

450:16-17-3.1 [NEW]

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-315 and 3-315.1

DATES:

Adoption:

January 10, 2003

Approved by Governor:

February 27, 2003

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2004, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The federally mandated Health Insurance Portability and Accountability Act (HIPAA) requires health care providers to implement additional security and privacy initiatives relative to individuals' health information by April 1, 2003. Non-compliance with HIPAA may result in monetary penalties. These rule revisions are needed to timely bring ODMHSAS into compliance with HIPAA and avoid monetary penalties.

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 16 are part of the Department's review of Title 450 and are intended to bring ODMHSAS into compliance with HIPAA requirements regarding standards addressing the privacy and security of confidential client health information.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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 17. SECURITY AND DISCLOSURE OF RESIDENT INFORMATION

450:16-17-1. Disclosure of resident information

(a) Confidentiality of information concerning a resident is applicable throughout the RCF.

(1) Staff shall be made aware of conditions for release of information in compliance with state and federal laws and regulations.

(2) The RCF's written policies and procedures shall describe the conditions under which information on applicants or residents may be disclosed and the procedure for releasing such information (~~including the ODMHSAS Qualified Service Agreement~~). These conditions and procedures shall be in compliance with state and federal laws and regulations, which include, but are not limited to, 43A O.S. §§1-109, 3-422 and 3-423; 63 O.S. §1-502.2, and (U.S.) 42 C.F.R., Part 2, and 45 C.F.R. §§160.101 et seq.

(b) Compliance with 450:16-17-1 shall be determined by a review of the RCF's written policies and procedures and documented staff training.

450:16-17-3. Consent for disclosure [REVOKED]

~~(a) Release of residents' information, verbal or written, shall be completed only upon the written consent of the resident or legal guardian, or executor; or on the order of a court of competent jurisdiction. The disclosure of resident information is made as follows:~~

~~(1) The name of the RCF which is to make the disclosure;~~

~~(2) The name or title of the person or organization to which disclosure is to be made;~~

~~(3) The name of the resident;~~

~~(4) The purpose or need for the disclosure;~~

~~(5) The extent or nature of information to be disclosed;~~

~~(6) A statement that the consent is subject to revocation at any time except to the extent action has already been taken in reliance thereon, and a specification of the date, event, or condition upon which it will expire without revocation;~~

~~(7) The date on which the consent to disclose is signed;~~

~~(8) The signature of the resident, or when required, the signature of a person legally authorized; and when possible, a written statement from the resident indicating understanding of his or her consent;~~

~~(9) A written statement addressing prohibition of re-disclosure shall be stamped upon each page of released information, which states: "This information has been disclosed to you from records whose confidentiality is protected by federal law. You are prohibited from making any further disclosure of it without the specific written consent of the person to whom it pertains. A general authorization for the release of information is NOT sufficient. This information is to be destroyed upon fulfillment of the stated purpose." and~~

~~(10) Contain, in bold face type, the following statement: "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)." [63 O.S. § 1-1502(B)]~~

~~(b) EXCEPTIONS: When necessary to protect the life, or safety of the resident; or where the resident's name and location must be disclosed in order to report, as required by statute, child abuse or abuse of elderly or incapacitated adults.~~

~~(c) Compliance with 450:16-17-3 shall be determined by a review of resident records; consent for disclosure forms; and RCF policies and procedures.~~

450:16-17-3.1. Confidentiality of mental health and drug or alcohol abuse treatment information

(a) All mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential. In addition, the identity of all consumers who have received or are receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged. Such information shall only be available to persons or agencies actively engaged in the treatment of the consumer unless a state or federal law exception applies.

(b) All facilities shall have policy and procedures protecting the confidential and privileged nature of mental health and drug or alcohol abuse treatment information in compliance with state and federal law and which contain at a minimum:

(1) an acknowledgment that all mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(2) an acknowledgment that the identity of a consumer who has received or is receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(3) a procedure to limit access to mental health and drug or alcohol abuse treatment information to only those

persons or agencies actively engaged in the treatment of the patient and to the minimum amount of information necessary to carry out the purpose for the release;

(4) a procedure by which a consumer, or the consumer's legally authorized representative, may access the consumer's mental health and drug or alcohol abuse treatment information;

(5) an acknowledgement that certain state and federal law exceptions to disclosure of mental health and drug or alcohol abuse treatment information without the written consent of the consumer or the consumer's legally authorized representative exist and the facility will release information as required by those laws and

(6) a procedure by which to notify a consumer of his or her right to confidentiality.

(c) A facility disclosing information pursuant to a written consent to release information shall ensure the written consent form complies with all applicable state and federal law and contains at a minimum the following:

(1) the name of the person or program permitted to make the disclosure;

(2) the name or title of the person or the name of the organization to which disclosure is to be made;

(3) the name of the consumer whose records are to be released;

(4) a description of the information to be disclosed;

(5) the specific reason for the disclosure;

(6) the signature of the consumer or the consumer's legally authorized representative;

(7) the date the consent to release was signed by the consumer or the consumer's legally authorized representative;

(8) an expiration date, event or condition which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given;

(9) a statement of the right of the consumer, or the consumer's legally authorized representative, to revoke the consent to release in writing and a description of how the patient may do so;

(10) a confidentiality notice which complies with state and federal law; and

(11) a statement in bold face writing that "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)."

(d) Compliance with 450:16-17-3.1 shall be determined by a review of facility policy and procedures; facility forms; consumer record reviews; interviews with staff and consumers; and any other supporting facility documentation.

*[OAR Docket #03-353; filed 3-5-03]
(format accepted 3-6-03)*

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TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH SERVICES CENTERS

[OAR Docket #03-355]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Required Services
Part. 11 Case Management
450:17-3-106 [AMENDED]
Subchapter 5. Optional Services
Part 19. Program for Assertive Community Treatment
450:17-5-111 [REVOKED]
450:17-5-112 [REVOKED]
450:17-5-113 [REVOKED]
450:17-5-114 [REVOKED]
450:17-5-115 [REVOKED]
450:17-5-116 [REVOKED]
450:17-5-117 [REVOKED]
450:17-5-118 [REVOKED]
450:17-5-119 [REVOKED]
450:17-5-120 [REVOKED]
450:17-5-121 [REVOKED]
450:17-5-122 [REVOKED]
450:17-5-123 [REVOKED]
450:17-5-124 [REVOKED]
450:17-5-125 [REVOKED]
450:17-5-126 [REVOKED]
450:17-5-127 [NEW]

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-318 and 3-319

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Public hearing:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

43A O.S. Sections 3-318 and 3-319 became effective on November 1, 2002. These sections require the Board of Mental Health and Substance Abuse Services to promulgate rules and standards for certification of programs for assertive community treatment and behavioral health case managers addressing criteria for certification and renewal, including minimum education requirements, examination and supervision requirement, continuing education requirements and rules of professional conduct.

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rules implement 43A O.S. §§ 3-318 and 3-319, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify behavioral health case managers and programs for assertive community treatment.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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

SUBCHAPTER 3. REQUIRED SERVICES

PART 11. CASE MANAGEMENT

450:17-3-106. Case management services, staff credentials

(a) Individuals providing ~~adult or juvenile~~ case management services shall ~~minimally have the following qualifications be certified as a behavioral health case manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50.~~

- (1) ~~Bachelors degree in a behavioral health field;~~
- (2) ~~Successful completion of twenty four (24) hours of ODMHSAS Case Management Training; and~~
- (3) ~~Successful completion of the OMHSAS Case Management Training Project.~~

(b) ~~Continued ODMHSAS approval as a case manager shall include documentation of twelve (12) hours of continuing education, submitted to ODMHSAS for approval. Compliance with 450:17-3-106 shall be determined by a review of the documentation of ODMHSAS Case Manager training and official college transcripts.~~

SUBCHAPTER 5. OPTIONAL SERVICES

PART 19. PROGRAM FOR ASSERTIVE COMMUNITY TREATMENT

450:17-5-111. General program description and target population [REVOKED]

~~Program Description. A Program of Assertive Community Treatment (PACT) is a self-contained clinical program which is the fixed point of responsibility for providing treatment, rehabilitation, and support services to identified consumers with serious mental illnesses. The PACT team shall use an integrated service approach to merge clinical and rehabilitation staff expertise, e.g., psychiatric, substance abuse, employment, etc., within one service delivery team, supervised by a qualified program director. Accordingly, there shall be a minimal referral of consumers to other program entities for treatment, rehabilitation, and support services. The PACT staff is responsible to ensure services are continuously available in natural settings for the consumer in a manner that is courteous, helpful, and respectfulness to consumers.~~

450:17-5-112. Admission criteria [REVOKED]

- (a) The PACT program shall maintain written admission policies and procedures that, at a minimum include the following:
- (b) Consumers with serious mental illnesses listed in the diagnostic nomenclature, currently the Diagnostic and Statistical Manual, Fourth Edition, or DSM IV, of the American Psychiatric Association, and that seriously impair their functioning in community living. Priority shall be given to people with schizophrenia and other psychotic disorders, e.g., schizoaffective disorder, or bipolar disorder because these illnesses more often cause long term psychiatric disability. Individuals with a primary diagnosis of a substance use disorder or mental retardation are not appropriate for admission to PACT services.

450:17-5-113. Discharge criteria [REVOKED]

The PACT program shall maintain written discharge policies and procedures that, at a minimum include the following discharge criteria:

- (1) The consumer and program staff mutually agree to the termination of services; or
- (2) The consumer moves outside the geographic area of PACT's responsibility. In such cases, the PACT team shall arrange for transfer of mental health service responsibility to a provider where the consumer is moving. The PACT team shall maintain contact with the consumer until this service transfer is arranged; or
- (3) The consumer demonstrates an ability to function in all major role areas, i.e., work, social, self-care, without requiring assistance from the program. Such a determination shall be made by both the consumer and the PACT team; or
- (4) The consumer becomes physically unable to benefit from the services.

450:17-5-114. Program Management and Capacity [REVOKED]

- (a) **Program Organization.** The PACT program shall vest authority with a team leader who shall be responsible for ensuring the PACT team meets the following organizational requirements:
- (b) **Hours of Operation and Staff Coverage.** The PACT program shall assure adequate coverage to meet consumers' needs, including, but not limited to:
 - (1) The PACT team shall be available to provide treatment, rehabilitative and support services seven days per week, over two eight hour shifts, and operate a minimum of 12 hours per day on weekdays and eight hours each weekend day and every holiday.
 - (2) The PACT team shall operate an after hours on-call system. PACT team staff who are experienced in the program and skilled in crisis intervention procedures shall be on call and available to respond to consumers by telephone or in person.

- (3) Psychiatric backup shall also be available during all off hour periods. If availability of the PACT team's psychiatrist during all hours is not feasible, alternative psychiatric backup should be arranged (e.g., mental health center psychiatrist, emergency room psychiatrist).

(e) **Advisory Committee.** The PACT Program shall assure that a local advisory committee is established, with input of local advocates and other stakeholders.

- (1) The committee shall be constituted of representative stakeholders including consumers, family members, advocates, other professionals and community leaders.
- (2) The team leader shall convene the advisory committee and work with the committee to establish a structure for meetings and committee procedures.
- (3) The primary role of the Advisory Committee is to assist with implementation, policy development, advocate for program needs, and monitor outcomes of the program.
- (4) The Advisory Committee shall meet at least once each quarter.
- (5) Written minutes of committee meetings shall be maintained.

(d) **Location.** The program shall have adequate space to support program operations.

(e) **Service Intensity.** Resources and operations for the PACT program shall minimally include the following:

- (1) The PACT team shall have the capacity to provide multiple contacts per week to consumers experiencing severe symptoms or significant problems in daily living.
- (2) The PACT team shall provide an average of three contacts per week for each consumer, unless otherwise clinically indicated.

(f) **Place of Treatment.** Each team shall provide 75 percent of service contacts in the community, in non office or non-facility based settings.

- (1) Each PACT team shall maintain data to verify the service contact mandates are being met.
- (2) The location of each treatment service provided will be documented in the clinical record.

450:17-5-115. Staff communication and planning [REVOKED]

(a) The organizational structure of the PACT team shall minimally include the following:

(b) The PACT team shall conduct daily organizational staff meetings at regularly scheduled times as prescribed by the team leader. Daily organizational staff meetings shall be conducted in accordance with the following procedures, which include but are not limited to:

- (1) The PACT team shall maintain a written daily log, using either a notebook or cardex. The daily log shall document:
 - (A) a roster of the consumers served in the program; and,
 - (B) for each program consumer, brief documentation of any treatment or service contacts which have occurred during the day and a concise, behavioral description of the consumer's daily status.

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(2) The daily organizational staff meeting shall commence with a review of the daily log, to update staff on the treatment contacts which occurred the day before and to provide a systematic means for the team to assess the day to day progress and status of all consumers.

(A) The PACT team, under the direction of the team leader, shall maintain a weekly consumer schedule for each consumer. The weekly consumer schedule is a written schedule of all treatment and service contacts which staff must carry out to fulfill the goals and objectives in the consumer's treatment plan. The team shall maintain a central file of all weekly consumer schedules.

(B) The PACT team, under the direction of the team leader, shall develop a daily staff assignment schedule from the central file of all weekly consumer schedules. The daily staff assignment schedule is a written timetable for all consumer treatment and service contacts, to be divided and shared by the staff working on that day.

(C) The daily organizational staff meeting shall include a review by the shift manager of all the work to be done that day as recorded on the daily staff assignment schedule. During the meeting, the shift manager will assign and supervise staff to carry out the treatment and service activities scheduled to occur that day, and the shift manager will be responsible for assuring that all tasks are completed.

(D) At the daily organizational staff meeting, the PACT team shall also revise treatment plans as needed, plan for emergency and crisis situations, and add service contacts to the daily staff assignment schedule per the revised treatment plans.

(3) The PACT team shall conduct treatment planning meetings under the supervision of the team leader and the psychiatrist. These treatment planning meetings shall minimally:

(A) convene at regularly scheduled times per a written schedule maintained by the team leader, and

(B) occur with sufficient frequency and duration to develop written individual consumer treatment plans and to review and rewrite the plans every six months.

450:17-5-116. Clinical supervision [REVOKED]

(a) Each PACT team shall develop a written policy for clinical supervision of all staff providing treatment, rehabilitation, and support services. The team leader, or his or her clinical staff designee, or both, shall assume responsibility for supervising and directing all PACT team staff activities. This supervision and direction shall minimally consist of:

(b) Individual, side by side sessions in which the supervisor accompanies an individual staff member to meet with consumers in regularly scheduled or crisis meetings to assess performance, give feedback, and model alternative treatment approaches; and

(c) Participation with team members in daily organizational staff meetings and regularly scheduled treatment planning

meetings to review and assess staff performance and provide staff direction regarding individual cases.

450:17-5-117. Orientation and training [REVOKED]

(a) Each PACT program shall develop and implement an orientation and training program that all new staff shall complete prior to providing services. The orientation shall minimally include a review of the following:

(1) Title 450, Chapter 15, Consumer Rights and Chapter 17, Subchapter 5, Part 19, Optional Services, Program for Assertive Community Treatment, Subchapter 9, Consumer Records and Confidentiality, and any other parts of Title 450 deemed appropriate;

(2) PACT program policies;

(3) Job responsibilities specified in job description

(b) Each PACT program shall develop and implement a training plan for all staff including:

(1) use of staff meeting time which is set aside for training;

(2) presentations by community resource staff from other agencies;

(3) attendance at conferences and workshops; and,

(4) discussion and presentation of current principles and methods of treatment, rehabilitation, and support services for persons with serious mental illnesses.

450:17-5-118. Services [REVOKED]

(a) The PACT program shall minimally provide the following comprehensive treatment, rehabilitation, and support services as a self-contained service unit on a continuous basis.

(b) Treatment. The PACT program shall provide or make arrangements for treatment services, which shall minimally include:

(1) **Crisis Assessment and Intervention.** Crisis assessment and intervention shall be provided 24 hours per day, seven days per week. These services will include telephone and face to face contact and will be provided in conjunction with the local mental health system's emergency services program as appropriate.

(2) **Symptom Assessment, Management and Individual Supportive Therapy.** Symptom assessment, management, and individual supportive therapy shall be provided to help consumers cope with and gain mastery over symptoms and impairments in the context of adult role functioning. This therapy shall include but not necessarily be limited to the following:

(A) ongoing assessment of the consumer's mental illness symptoms and the consumer's response to treatment;

(B) education of the consumer regarding his or her illness and the effects and side effects of prescribed medications, where appropriate;

(C) symptom management efforts directed to help each consumer identify the symptoms and occurrence patterns of his or her mental illness and develop methods (internal, behavioral, or adaptive) to help lessen their effects; and,

(D) psychological support to consumers, both on a planned and as needed basis, to help them accomplish their personal goals and to cope with the stresses of day-to-day living.

450:17-5-119. Medication prescription, administration, monitoring, and documentation [REVOKED]

(a) The PACT team program shall have medication policies and procedures that are specific to the PACT program and meet the unique needs of the consumers served.

(b) Medication related policies and procedures shall identify processes to:

- (1) record physician orders;
- (2) order medication;
- (3) arrange for all consumer medications to be organized by the team and integrated into consumers' weekly schedules and daily staff assignment schedules; and,
- (4) provide security for medications (i.e., long-term indictable, daily, and longer term supplies) and set aside a private designated area for set up of medications by the team's nursing staff; and,
- (5) administer medications to program consumers.

(c) The PACT team psychiatrist shall minimally:

- (1) assess each consumer's mental illness symptoms and behavior and prescribe appropriate medication;
- (2) regularly review and document the consumer's symptoms of mental illness as well as his or her response to prescribed medication treatment;
- (3) educate the consumer regarding his or her mental illness and the effects and side effects of medication prescribed to regulate it; and,
- (4) monitor, treat, and document any medication side effects.

(d) All PACT team members shall assess and document the consumer's mental illness symptoms and behavior in response to medication and shall monitor for medication side effects.

450:17-5-120. Rehabilitation [REVOKED]

(a) The PACT program shall provide or make arrangements for rehabilitation services, which shall minimally include:

(b) **Work-Related Services.** Work-related services shall be provided as needed to help consumers find and maintain employment in community based job sites. These shall include but not limited to:

- (1) assessment of job related interests and abilities, through a complete education and work history assessment as well as on-the-job assessments in community based jobs;
- (2) assessment of the effect of the consumer's mental illness on employment, with identification of specific behaviors that interfere with the consumer's work performance and development of interventions to reduce or eliminate those behaviors;
- (3) development of an ongoing employment rehabilitation plan to help each consumer establish the skills necessary to find and maintain a job;

(4) individual supportive therapy to assist consumers to identify and cope with the symptoms of mental illness that may interfere with their work performance;

(5) on-the-job or work-related crisis intervention; and,

(6) work-related supportive services, such as assistance with grooming and personal hygiene, securing of appropriate clothing, wake up calls, and transportation.

(c) **Substance Abuse Services.** The PACT program shall provide substance abuse services as needed by consumers. These shall include but not be limited to individual and group interventions to assist consumers to:

- (1) identify substance use, effects, and patterns;
- (2) recognize the relationship between substance use and mental illness and psychotropic medications;
- (3) develop motivation for decreasing substance use; and,
- (4) develop coping skills and alternatives to minimize substance use and achieve periods of abstinence and stability.

(d) **Activities of Daily Living.** The PACT program shall provide as needed services to support activities of daily living in community based settings. These shall include individualized assessment, problem solving, side by side assistance and support, skill training, ongoing supervision, e.g. prompts, assignments, monitoring, encouragement, and environmental adaptations to assist consumers to gain or use the skills required to:

- (1) carry out personal hygiene and grooming tasks;
- (2) perform household activities, including house cleaning, cooking, grocery shopping, and laundry;
- (3) find housing which is safe and affordable (e.g., apartment hunting, finding a roommate, landlord negotiations, cleaning, furnishing and decorating, procuring necessities, such as telephone, furnishings, linens, etc.);
- (4) develop or improve money management skills;
- (5) use available transportation; and,
- (6) have and effectively use a personal physician and dentist.

(e) **Social, Interpersonal Relationship, and Leisure Time Skill Training.** The PACT program shall provide as needed services to support social, interpersonal relationship, and leisure time skill training include supportive individual therapy, e.g., problem solving, role playing, modeling, and support, etc.; social skill teaching and assertiveness training; planning, structuring, and prompting of social and leisure time activities; side-by-side support and coaching; and organizing individual and group social and recreational activities to structure consumers' time, increase their social experiences, and provide them with opportunities to practice social skills and receive feedback and support required to:

- (1) improve communication skills, develop assertiveness, and increase self-esteem as necessary;
- (2) develop social skills, increase social experiences, and where appropriate, develop meaningful personal relationships;
- (3) plan appropriate and productive use of leisure time;
- (4) relate to landlords, neighbors, and others effectively; and,

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(5) familiarize themselves with available social and recreational opportunities and increase their use of such opportunities.

450:17-5-121. Support services [REVOKED]

(a) The PACT program shall provide for support services to minimally include case management, education, support, and consultation to families and other supports.

(b) **Case Management.** Each consumer will be assigned a primary case manager who coordinates and monitors the activities of the individual treatment team and has primary responsibility to write the treatment plan, to provide individual supportive therapy, to ensure immediate changes are made in treatment plans as consumers' needs change, and to advocate for consumer rights and preferences. The primary case manager is also the first staff person called on when the consumer is in crisis and is the primary support person and educator to the individual consumer's family. Members of the consumer's individual treatment team share these tasks with the case manager and are responsible to perform the tasks when the case manager is not working.

(c) **Support Services.** The PACT program shall provide support direct assistance to ensure that consumers obtain the basic necessities of daily life include but are not necessarily limited to:

- (1) medical and dental services;
- (2) safe, clean, affordable housing;
- (3) financial support;
- (4) social services;
- (5) transportation; and,
- (6) legal advocacy and representation.

(d) **Education, Support and Consultation to Consumers' Families and Other Major Supports.** The PACT program shall provide services as needed to consumers' families and other major supports for consumer families, with consumer agreement or consent, which includes the following:

- (1) Education about the consumer's illness and the role of the family in the therapeutic process; or,
- (2) Intervention to resolve conflict; or,
- (3) Ongoing communication and collaboration, face-to-face and by telephone, between the PACT team and the family.

450:17-5-122. Staffing requirements [REVOKED]

(a) The PACT team shall include individuals qualified to provide the services described above, including case management; crisis assessment and intervention; symptom assessment and management; individual supportive therapy; medication prescription, administration, monitoring, and documentation; substance abuse treatment; work related services; activities of daily living services; social, interpersonal relationship and leisure time activity services; support services or direct assistance to ensure that consumers obtain the basic necessities of daily life; and education, support, and consultation to consumers' families and other major supports.

(b) The PACT program shall employ a minimum of five full-time equivalent (FTE) clinical staff persons, in addition to one program assistant, a psychiatrist and a peer support specialist.

(c) Each PACT team shall have the following minimum staffing configuration:

(1) A full-time team leader, who is the clinical and administrative supervisor of the team and also functions as a practicing clinician on the PACT team. The team leader has at least a master's degree in nursing, social work, psychiatric rehabilitation, or psychology, or is a psychiatrist.

(2) A psychiatrist on a full-time or part-time basis for a minimum of 16 hours per week for every 50 consumers. The psychiatrist provides clinical services to all PACT consumers, works with the team leader to monitor each consumer's clinical status and response to treatment, supervises staff delivery of services, and directs psychopharmacologic and medical treatment.

(3) A minimum of five FTE licensed professionals on a team, including the team leader. The licensed professional shall be as defined in 43A O.S. § 5-206(1) or be a licensed registered nurse. Required among the mental health professionals are:

(A) At least two FTE shall be registered nurses on each team; and,

(B) One or more staff mental health professionals designated for the role of vocational specialist, preferably with a master's degree in rehabilitation counseling.

(4) Remaining clinical staff shall have a bachelor's degree in a behavioral science and work experience with adults with serious mental illness (es) and paraprofessional mental health workers who carry out rehabilitation and support functions.

(5) A minimum of one-half (0.5) FTE peer specialist shall be included on each team for every 50 consumers on the team. A person who is or has been a recipient of mental health services for serious mental illness holds the position. Because of their life experience with mental illness and mental health services, the peer specialist provides expertise that professional training cannot replicate. Peer specialists shall be fully integrated team members who provide highly individualized services in the community and promote consumer self-determination and decision-making. Peer specialists shall also provide essential expertise and consultation to the entire team to promote a culture in which each consumer's point of view and preferences are recognized, understood, respected, and integrated into treatment, rehabilitation, and community self-help activities.

(6) Each team shall minimally have one-half (0.5) FTE program assistant team for every 50 consumers on the team. Program assistants shall be responsible for organizing, coordinating, and monitoring non-clinical operations of PACT including, but not limited to managing clinical records; operating and coordinating the management information system; maintaining accounting and budget records for consumer and program expenditures; and providing receptionist activities including triaging calls and

coordinating communication between the team and consumers.

- (d) **Service Capacity.** Each PACT team shall have the organizational ability to provide a staff-to-consumer ratio of at least one (1) FTE staff person for every ten (10) consumers, excluding the psychiatrist and the program assistant, with no more than 120 consumers served on any given team.
- (e) **Staffing Roster.** Each PACT team shall maintain and post a current staffing roster that includes staff work schedules and on-call duty.

450:17-5-123. Assessment and treatment planning [REVOKED]

- (a) The PACT team shall maintain written assessment and treatment planning policies and procedures to assure that appropriate, comprehensive, and on going assessment and treatment planning occur.
- (b) **Initial assessment and initial treatment plan.** The team leader or the psychiatrist, with participation of designated team members, shall do an initial assessment and complete an initial treatment plan at the time of the consumer's admission to PACT.
- (c) The team leader will assign the consumer a psychiatrist, primary case manager, and individual treatment team members within one (1) week of admission.
- (d) Assessment data shall be collected and evaluated by PACT team staff with the skill and knowledge in the area being assessed within one month of the consumer's admission. Assessments shall be based upon all available information, including self reports, reports of family members and other significant parties, and written summaries from other agencies, including police, courts, and outpatient and inpatient facilities, where applicable, culminating in a comprehensive assessment.
- (e) **Comprehensive Assessment.** The consumer's psychiatrist, primary PACT case manager, and individual treatment team members shall prepare the written comprehensive assessment and the comprehensive treatment plan within six (6) weeks of admission. Input from all team members shall be included in these individual assessments. The comprehensive assessment shall include a written narrative report for each of the following areas:
 - (1) Psychiatric history, mental status, and a DSM IV diagnosis, to be completed by the PACT psychiatrist;
 - (2) Medical, dental, and other health needs; to be completed by a PACT registered nurse;
 - (3) Extent and effect of drugs or alcohol use completed by a team professional as approved by the team leader;
 - (4) Education and employment;
 - (5) Social development and functioning by a team professional as approved by the team leader;
 - (6) Activities of daily living, to be completed the team professional or peer specialist under the supervision of the team leader;
 - (7) Family structure and relationships by a team professional as approved by the team leader; and,
 - (8) Historical timeline by all team members under the supervision of the team leader.

450:17-5-124. Treatment planning [REVOKED]

- (a) The PACT program shall have written treatment planning policies and procedures with the following treatment planning process:
- (b) The PACT team shall evaluate each consumer's needs, strengths, abilities and preferences and develop an individualized treatment plan, which shall identify individual needs and problems and specific measurable long and short term goals along with the specific services and activities necessary for the consumer to meet those goals and improve his or her capacity to function in the community. The treatment plan shall be developed in collaboration with the consumer or guardian, if any, and when feasible, the consumer's family. The consumer's participation in the development of the treatment plan shall be documented.
- (c) The PACT team shall meet at regularly scheduled times for treatment planning meetings. Treatment planning meetings shall be scheduled in advance of the meeting and the schedule shall be posted. A summary of the treatment planning meeting shall be documented in the consumer's clinical record. At each treatment planning meeting the following staff should attend: team leader, psychiatrist, primary case manager, individual treatment team members, and all other PACT team members involved in regular tasks with the consumer.
- (d) Individual treatment team members shall ensure the consumer is actively involved in the development of treatment and service goals. With the permission of the consumer, PACT team staff shall also involve pertinent agencies and members of the consumer's social network in the formulation of treatment plans.
 - (1) Each consumer's treatment plan shall identify needs and problems, strengths and weaknesses, goals, and specific, measurable treatment objectives. The treatment plan shall clearly specify the services and activities necessary to meet the consumer's needs and who will be providing those services and activities.
 - (2) The following key areas shall be addressed in every consumer's treatment plan: symptom stability, symptom management and education, housing, activities of daily living, employment and daily structure, and family and social relationships.
 - (3) The primary case manager and the individual treatment team shall be responsible for reviewing and revising the treatment goals and plan whenever there is a major decision point in the consumer's course of treatment, e.g., significant change in consumer's condition, etc., or at least every six months. The revised treatment plan shall be based on the results of a treatment planning meeting. Additionally, the primary case manager shall prepare a summary, i.e., treatment plan review, describing the consumer's progress since the last treatment planning meeting and outlining the consumer's current functional strengths and limitations. The plan and review will be signed or acknowledged by the consumer, the primary case manager, individual treatment team members, the team leader, the psychiatrist, and all PACT team members.

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450:17-5-125. Discharge [REVOKED]

- (a) ~~Documentation of consumer discharge shall be completed within 15 days of discharge and shall include all of the following elements:~~
- (b) ~~The reasons for discharge;~~
- (c) ~~The consumer's status and condition at discharge;~~
- (d) ~~A written final evaluation summary of the consumer's progress toward the treatment plan goals;~~
- (e) ~~A plan developed in conjunction with the consumer for treatment after discharge and for follow-up;~~
- (f) ~~Referral and transfer to other mental health services; and,~~
- (g) ~~The signature of the consumer's primary PACT case manager, team leader, and psychiatrist.~~

450:17-5-126. PACT Consumer Clinical Records [REVOKED]

- (a) ~~Consumer Clinical Records. For each consumer, the PACT team shall maintain a treatment record that is confidential, complete, accurate, and contains up to date information relevant to the consumer's care and treatment.~~
- (b) ~~The team leader and the program assistant shall be responsible for the maintenance and security of the consumer clinical records.~~
- (c) ~~The consumer clinical records are located at PACT team headquarters and, for confidentiality and security, are to be kept in a locked file.~~
- (d) ~~The program shall comply with Subchapter 7, Facility Clinical Record requirements except for 450:17-7-5; 450:17-7-7; 450:17-7-8; and 450:17-7-12.~~

450:17-5-127. Program for assertive community treatment

If a CMHC chooses to provide a program for assertive community treatment (PACT) as an optional service, the CMHC must become certified as a PACT and comply with OAC Title 450, Chapter 55, Standards and Criteria for Programs for Assertive Community Treatment.

*[OAR Docket #03-355; filed 3-5-03]
(format accepted 3-6-03)*

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH SERVICES CENTERS

[OAR Docket #03-354]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 9. Consumer Records and Confidentiality
450:17-9-1 [REVOKED]
450:17-9-1.1 [NEW]
450:17-9-2 [REVOKED]

AUTHORITY:

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

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The federally mandated Health Insurance Portability and Accountability Act (HIPAA) requires health care providers to implement additional security and privacy initiatives relative to individuals' health information by April 1, 2003. Non-compliance with HIPAA may result in monetary penalties. These rule revisions are needed to timely bring ODMHSAS into compliance with HIPAA and avoid monetary penalties.

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 17 are part of the Department's review of Title 450 and are intended to bring ODMHSAS into compliance with HIPAA requirements regarding standards addressing the privacy and security of confidential client health information.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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 9. CONSUMER RECORDS AND CONFIDENTIALITY

450:17-9-1. Confidentiality, mental health consumer information and records [REVOKED]

(a) ~~Consumer records and clinical information are confidential, and are protected under the provisions of 43A O.S. §§ 1-109, 3-422 and 3-423; 63 O.S. §1-502.2 and (U.S.) 42 CFR, Part 2. The facility shall have policy and procedures protecting this confidentiality which shall be communicated to the consumer including, but not limited to:~~

(1) ~~Medical records and all communications between consumer and doctor or psychotherapist are privileged and confidential; with such information limited to entities actively engaged in treatment of the consumer or related administrative tasks.~~

(2) ~~Privileged and confidential information shall not be released to any person or entity not involved in the consumer's treatment without the written, informed consent of the consumer, or his or her guardian, or parent of a minor child, or a private or public child care agency having legal custody of the minor child.~~

(3) Identifying information may be released without the consent required in 450:17-9-1(a)(2) under any of the following conditions:

(A) Required to fulfill any statutorily required reporting of child abuse (10 O.S. § 7005(1.7) and abuse of elderly or incapacitated adults (43A O.S. § 10-104); and all treatment staff shall have a general knowledge of the provisions of Public Law 99-401, which amended the federal confidentiality laws to remove any restrictions on compliance with state laws mandating reporting of child abuse and neglect. (This statute requires cases involving suspected, actual or imminent harm to children must be reported to child protection agencies; and therefore, are not covered by confidentiality requirements. This provision applies only to initial reports of child abuse or neglect, and not to requests for additional information or records. Thus, court orders are still required before records may be used to initiate or substantiate any criminal charges against a consumer, or to conduct any investigation of a consumer.)

(B) Release is required as provided by 10 O.S. §§ 7005(1.1) through 7005(1.3).

(C) On the order of a court of competent jurisdiction.

(D) Between holders of contracts with ODMHSAS having signed a qualified service agreement (43A O.S. § 1-109(A) (2), as provided by said contract. These facilities shall have policy and procedures to permit transmittal of records and information regarding the care and treatment of a specific consumer as necessary and appropriate between them or ODMHSAS, or another contracted holder of a qualified service agreement.

(4) The manner of personal access of a present or former consumer to his or her records shall conform to the provisions of 43A O.S. § 1-109(B).

(5) With the consent of the consumer, information may be provided to responsible family members as provided for and limited in 43A O.S. § 1-109(C)(1 through 5).

(6) The reviews of records by state or federal accrediting, certifying, or funding agencies may occur to verify services, or facility compliance with statutes or regulations.

(7) A written consent for release of confidential information form shall be used, which contains and encompasses:

(A) The consumer being informed of the reason and need for the information release, the specific information to be released, and the period of time covered by the information to be released.

(B) The consumer being informed that treatment services are not contingent upon, or influenced by, his or her decision to permit the information release.

(C) The consumer's consent being given freely and voluntarily.

(D) The following information shall appear on the consent to release of confidential information form:

(i) The name and address of the facility making the disclosure of information; and the name and title of the person completing the disclosure.

(ii) The name of the person, title (if any), and name of the organization (if any) to which the information is being supplied.

(iii) The name of the consumer.

(iv) The exact extent of information being disclosed.

(v) The length of time the consent will remain valid unless otherwise revoked, in writing, by the consumer.

(vi) Signature of the consumer, or legal guardian, and the date of such signature.

(vii) Notice in bold face type stating, "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS). [63 O.S. § 1-1502(B)]"

(b) In addition, the facility shall have policy and procedures which shall:

(1) Limit access to records to persons with a need to know;

(2) Provide for the safe storage of consumer records under lock and key; and

(3) Provide for stated periods of retention of closed consumer records, and subsequent disposition of the records. Facilities operated by the ODMHSAS shall comply with the provisions of the Department's Records Disposition Schedule as approved by the Oklahoma Archives and Records Commission.

(e) Compliance with 450:17-9-1 shall be determined by a review of facility policy and procedures; facility forms; consumer record reviews; interviews with staff and consumers; and any other supporting facility documentation.

450:17-9-1.1. Confidentiality of mental health and drug or alcohol abuse treatment information

(a) All mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential. In addition, the identity of all consumers who have received or are receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged. Such information shall only be available to persons or agencies actively engaged in the treatment of the consumer unless a state or federal law exception applies.

(b) All facilities shall have policy and procedures protecting the confidential and privileged nature of mental health and drug or alcohol abuse treatment information in compliance with state and federal law and which contain at a minimum:

(1) an acknowledgment that all mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or

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psychotherapist and a consumer are both privileged and confidential and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(2) an acknowledgment that the identity of a consumer who has received or is receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(3) a procedure to limit access to mental health and drug or alcohol abuse treatment information to only those persons or agencies actively engaged in the treatment of the patient and to the minimum amount of information necessary to carry out the purpose for the release;

(4) a procedure by which a consumer, or the consumer's legally authorized representative, may access the consumer's mental health and drug or alcohol abuse treatment information;

(5) an acknowledgement that certain state and federal law exceptions to disclosure of mental health and drug or alcohol abuse treatment information without the written consent of the consumer or the consumer's legally authorized representative exist and the facility will release information as required by those laws and

(6) a procedure by which to notify a consumer of his or her right to confidentiality.

(c) A facility disclosing information pursuant to a written consent to release information shall ensure the written consent form complies with all applicable state and federal law and contains at a minimum the following:

(1) the name of the person or program permitted to make the disclosure;

(2) the name or title of the person or the name of the organization to which disclosure is to be made;

(3) the name of the consumer whose records are to be released;

(4) a description of the information to be disclosed;

(5) the specific reason for the disclosure;

(6) the signature of the consumer or the consumer's legally authorized representative;

(7) the date the consent to release was signed by the consumer or the consumer's legally authorized representative;

(8) an expiration date, event or condition which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given;

(9) a statement of the right of the consumer, or the consumer's legally authorized representative, to revoke the consent to release in writing and a description of how the patient may do so;

(10) a confidentiality notice which complies with state and federal law; and

(11) a statement in bold face writing that "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such

as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)."

(d) Compliance with 450:17-9-1.1 shall be determined by a review of facility policy and procedures; facility forms; consumer record reviews; interviews with staff and consumers; and any other supporting facility documentation.

450:17-9-2. Confidentiality, substance abuse consumer information and records [REVOKED]

The rules governing confidentiality for mental health consumers are found in 450:17-9-1. For CMHCs evaluating or treating persons where substance abuse is a focus of the evaluation or treatment, the rules governing confidentiality of consumer substance abuse information and records as set forth in 450:18-7-3 apply and shall be complied with, as particular federal regulations (42 CFR, Part 2) apply to the release of information regarding substance abuse consumers and their records.

*[OAR Docket #03-354; filed 3-5-03]
(format accepted 3-6-03)*

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 18. STANDARDS AND CRITERIA FOR SUBSTANCE ABUSE SERVICES

[OAR Docket #03-356]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 7. Facility Record System

Part 1. Facility Record System

450:18-7-3 [REVOKED]

450:18-7-3.1 [NEW]

Part 15. Other Case Record Materials

450:18-7-143 [AMENDED]

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306 and 3-317

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The federally mandated Health Insurance Portability and Accountability Act (HIPAA) requires health care providers to implement additional security and privacy initiatives relative to individuals' health information by April 1, 2003. Non-compliance with HIPAA may result in monetary penalties. These rule revisions are needed to timely bring ODMHSAS into compliance with HIPAA and avoid monetary penalties.

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 18 are part of the Department's review of Title 450 and are intended to bring ODMHSAS into compliance with HIPAA requirements regarding standards addressing the privacy and security of confidential client health information.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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 7. FACILITY RECORD SYSTEM

PART 1. FACILITY RECORD SYSTEM

450:18-7-3. Confidentiality, substance abuse records [REVOKED]

(a) ~~Consumer records and clinical information are confidential and are protected under the provisions of 43A O.S. §§ 3-422 and 3-423; and of [U.S.] 42 CFR, Part 2. The facility shall have policy and procedures protecting this confidentiality (which shall be communicated to the consumer for consumers who have not been referred from the criminal justice system), which shall include, but not be limited to:~~

- ~~(1) Medical records and all communications between consumer and doctor or psychotherapist are privileged and confidential; with such information limited to entities actively engaged in treatment of the consumer or related administrative tasks.~~
- ~~(2) Privileged and confidential information shall not be released to any person or entity not involved in the consumer's treatment without the written, informed consent of the consumer, or his or her guardian, or parent of a minor child, or a private or public child care agency having legal custody of the minor child.~~
- ~~(3) Identifying information may be released without the consent required in 450:18-7-3(a)(2) when:~~
 - ~~(A) It is required to fulfill any statutorily required reporting of child abuse (10 O.S., § 7005(1.7) and abuse of elderly or incapacitated adults (43A O.S., § 10-104); or~~
 - ~~(B) As provided by 10 O.S. §§ 7005(1.1) through 7005(1.3) when the facility has a consumer who is the subject of a court proceeding pursuant to the provisions of the Oklahoma Children's Code; or~~
 - ~~(C) On the order of a court of competent jurisdiction; or~~
 - ~~(D) Holders of contracts with ODMHSAS having signed a qualified service agreement (43A O.S., § 1-109(A)(2), as provided by said contract. These facilities shall have policy and procedures to permit transmittal of records and information regarding the~~

~~care and treatment of a specific consumer as necessary and appropriate between them or the ODMHSAS, or another contracted holder of a qualified service agreement.~~

- ~~(4) Restricting personal access of present or former consumers to their records in a manner conforming to 43A O.S. § 1-109(B).~~
- ~~(5) With the consent of the consumer, providing information to responsible family members as provided and limited in 43A O.S. § 1-109(C)(1 through 5).~~
- ~~(6) The reviews of records by state or federal accrediting, certifying, or funding agencies may occur to verify services or facility compliance with statutes and regulations.~~
- ~~(7) A written consent for release of confidential information form shall be used, which contains and encompasses:~~
 - ~~(A) The consumer being informed of the reason and need for the information release, the specific information to be released, and the period of time covered by the information to be released.~~
 - ~~(B) The consumer being informed that treatment services are not contingent upon, or influenced by, his or her decision to permit the information release.~~
 - ~~(C) The consumer's consent being given freely and voluntarily.~~
 - ~~(D) The following information shall appear on the consent to release of confidential information form:~~
 - ~~(i) The name and address of the facility making the disclosure of information; and the name and title of the person completing the disclosure.~~
 - ~~(ii) The name of the person, title (if any), and name of the organization (if any) to which the information is being supplied.~~
 - ~~(iii) The name of the consumer.~~
 - ~~(iv) The exact extent of information being disclosed.~~
 - ~~(v) The length of time the consent will remain valid unless otherwise revoked, in writing, by the consumer.~~
 - ~~(vi) Signature of the consumer, or legal guardian, and the date of such signature.~~
 - ~~(vii) Notice in bold face type stating, "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS). [63 O.S. § 1-1502(B)]"~~
 - ~~(viii) There shall be a statement in bold face, stamped upon each page of information provided in the release stating, "This information has been disclosed to you from records protected by federal confidentiality rules (42 CFR, Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is~~

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expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR, Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient."

(b) For consumers who have been referred from the criminal justice system, the following shall be applicable:

- (1) The name and address of the facility making the disclosure of information; and the name and title of the person completing the information disclosure.
- (2) The name of the person, title (if any), and organization to which the information is being disclosed.
- (3) The name of the consumer.
- (4) The purpose or need for the disclosure.
- (5) The extent and type of information being disclosed.
- (6) State a specified time, or the occurrence of a specified event, the consent is revoked. In no event may this date be later than the final disposition of the criminal proceeding.
- (7) On each page of information released, in bold face type, shall be stamped, "The information disclosed may only be redisclosed to carry out the recipient's official duties with regard to the consumer's criminal proceeding in reference to which the consent to release confidential information was made by the consumer."
- (8) In bold face type, the statement, "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS) [63 O.S. § 1-1502(B)]."
- (9) The date on which the consent was signed.
- (10) The signature of the consumer or legal guardian.

(c) Compliance with 450:18-7-3 may be determined by a review of the following:

- (1) Facility policy and procedures;
- (2) Facility forms;
- (3) Consumer record reviews;
- (4) Interviews with staff and consumers; and
- (5) Any other supporting facility documentation.

450:18-7-3.1. Confidentiality of mental health and drug or alcohol abuse treatment information

(a) All mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential. In addition, the identity of all consumers who have received or are receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged. Such information shall only be available to persons or agencies actively engaged in the treatment of the consumer unless a state or federal law exception applies.

(b) All facilities shall have policy and procedures protecting the confidential and privileged nature of mental health and

drug or alcohol abuse treatment information in compliance with state and federal law and which contain at a minimum:

- (1) an acknowledgment that all mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential and will not be released without the written consent of the consumer or the consumer's legally authorized representative;
 - (2) an acknowledgment that the identity of a consumer who has received or is receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged and will not be released without the written consent of the consumer or the consumer's legally authorized representative;
 - (3) a procedure to limit access to mental health and drug or alcohol abuse treatment information to only those persons or agencies actively engaged in the treatment of the patient and to the minimum amount of information necessary to carry out the purpose for the release;
 - (4) a procedure by which a consumer, or the consumer's legally authorized representative, may access the consumer's mental health and drug or alcohol abuse treatment information;
 - (5) an acknowledgement that certain state and federal law exceptions to disclosure of mental health and drug or alcohol abuse treatment information without the written consent of the consumer or the consumer's legally authorized representative exist and the facility will release information as required by those laws and
 - (6) a procedure by which to notify a consumer of his or her right to confidentiality.
- (c) A facility disclosing information pursuant to a written consent to release information shall ensure the written consent form complies with all applicable state and federal law and contains at a minimum the following:
- (1) the name of the person or program permitted to make the disclosure;
 - (2) the name or title of the person or the name of the organization to which disclosure is to be made;
 - (3) the name of the consumer whose records are to be released;
 - (4) a description of the information to be disclosed;
 - (5) the specific reason for the disclosure;
 - (6) the signature of the consumer or the consumer's legally authorized representative;
 - (7) the date the consent to release was signed by the consumer or the consumer's legally authorized representative;
 - (8) an expiration date, event or condition which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given;
 - (9) a statement of the right of the consumer, or the consumer's legally authorized representative, to revoke the consent to release in writing and a description of how the patient may do so;
 - (10) a confidentiality notice which complies with state and federal law; and

(11) a statement in bold face writing that "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)."

(d) A written consent from a consumer to release treatment information to persons within the criminal justice system which have mandated the consumer's participation in treatment as a condition of the disposition of any criminal proceeding against the consumer shall comply with all applicable state and federal laws and contain at a minimum the following:

- (1) the name of the person or program permitted to make the disclosure;
- (2) the name or title of the person or the name of the organization to which disclosure is to be made;
- (3) the name of the consumer whose records are to be released;
- (4) a description of the information to be disclosed;
- (5) the specific reason for the disclosure;
- (6) the signature of the consumer or the consumer's authorized representative;
- (7) the date the consent to release was signed by the consumer or the consumer's authorized representative;
- (8) a statement in bold face writing that "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS);"
- (9) a specific time or specific event upon which the consent will expire and during which the consent shall be irrevocable, which in no event may be later than the final disposition of the criminal proceeding; and
- (10) a statement that any disclosure made is bound by the federal law and regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 U.S.C. § 290dd-2; 42 C.F.R., Part 2) and that recipients of the information may receive and redisclose it only in connection with their official duties with respect to the particular criminal proceeding and may not be used in other proceedings, for other purposes, or with respect to other individuals.

(e) Compliance with 450:18-7-3.1 shall be determined by a review of facility policy and procedures; facility forms; consumer record reviews; interviews with staff and consumers; and any other supporting facility documentation.

PART 15. OTHER CASE RECORD MATERIALS

450:18-7-143. Records and reports from other entities

(a) The consumer record shall contain any additional information relating to the consumer, which has been secured from sources outside the facility. The information obtained shall be confidential and privileged and may not be released except as allowed by applicable state and federal laws.

(b) Compliance with 450:18-7-143 may be determined by a review of policy and procedures; consumer records; progress notes; interviews with staff; and other facility documentation.

*[OAR Docket #03-356; filed 3-5-03]
(format accepted 3-6-03)*

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 19. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS**

[OAR Docket #03-357]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Client Records and Confidentiality
450:19-5-2 [AMENDED]
450:19-5-4 [AMENDED]
450:19-5-7 [REVOKED]
450:19-5-8 [REVOKED]
450:19-5-9 [REVOKED]
450:19-5-10 [NEW]

AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 2-202, 3-306 and 3-314.1

DATES:

Adoption:
January 10, 2003

Approved by Governor:
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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The federally mandated Health Insurance Portability and Accountability Act (HIPAA) requires health care providers to implement additional security and privacy initiatives relative to individuals' health information by April 1, 2003. Non-compliance with HIPAA may result in monetary penalties. These rule revisions are needed to timely bring ODMHSAS into compliance with HIPAA and avoid monetary penalties.

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 19 are part of the Department's review of Title 450 and are intended to bring ODMHSAS into compliance with HIPAA requirements regarding standards addressing the privacy and security of confidential client health information.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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):

Emergency Adoptions

SUBCHAPTER 5. CLIENT RECORDS AND CONFIDENTIALITY

450:19-5-2. Client records

~~(a) For the purposes of this subchapter, the subsequently stated sections regulating client record documents, and the documentation required therein, does not apply to individuals for whom there were either no formal services provided, or the contact was of such short duration the complete information needed for a client record could not be obtained. In these instances, the program shall have its own written policy and procedures for recording and documenting these short term contacts.~~

~~(b) The program shall have and maintain a master client index system containing the client's name, and the program's discreet numerical or letter identifier. If the program is under contract with ODMHSAS, the discreet identifier shall be the ODMHSAS ICIS client identification.~~

~~(c) There shall be written policy and procedures for correcting errors on record material by lining through, initialing both error and correction, and inserting the correct material either above the error or at the end of the entry. Further, the policy and procedures shall forbid the use of "white-out" or any action which obliterates the error.~~

~~(d) Compliance with 450:19-5-2 shall be determined by on-site observation, a review of program policy and procedures, client records, and any other supporting program documentation.~~

450:19-5-4. Client confidentiality

(a) Case record, files or notes; client records or similar records of any person who is utilizing or has utilized the services of a DV/SA program are confidential, and shall only be released under certain prescribed conditions (43 A.O.S. § 3-313 and 22 O.S. § 1601).

(b) The program shall have written policy and procedures to insure confidentiality of client information and govern the disclosure of information contained in client records which also complies with 450:19-5-10.

(c) Compliance with 450:19-5-4 shall be determined by a review of the program's policy and procedures manual; on-site review of locking mechanisms to assure security; and on-site observation of the handling of client records.

450:19-5-7. Disclosure of client information [REVOKED]

~~(a) The policy and procedures shall describe the conditions under which information on applicants, clients, or persons with only a brief contact may be disclosed, and the procedures for releasing such information. These conditions and procedures must be in compliance with 43 O.S. § 3-313 and 22 O.S. § 1601.~~

~~(b) Compliance with 450:19-5-7 shall be determined by a review of the program's policy and procedures.~~

450:19-5-8. Consent for disclosure of client information [REVOKED]

~~(a) A consent to release confidential information form shall be completed prior to releasing client records or any client identifying information and shall contain the following:~~

~~(1) The name and business address of the program making the disclosure;~~

~~(2) The name (and title, if any) of the person, program, or agency to whom the disclosure is to be made;~~

~~(3) The name of the client;~~

~~(4) The purpose or need for the disclosure;~~

~~(5) The extent or nature of information to be disclosed;~~

~~(6) A printed statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance thereon; and a specification of the date, event, or condition upon which the statement expires without an express revocation;~~

~~(7) The date on which the consent is signed;~~

~~(8) The signature of the client, or, when required, the signature of the person legally authorized to sign in lieu of the client; and~~

~~(9) A bold-faced printed statement addressing prohibition of redisclosure.~~

~~(b) Compliance with 450:19-5-8 shall be determined by a review of the program's policy and procedures; client records; and a copy of the program's consent to release confidential information form.~~

450:19-5-9. Conditions for disclosure of client information [REVOKED]

~~(a) The program shall have policy and procedures for obtaining consent to release confidential client information.~~

~~(b) A client's written consent for the release of information shall be considered valid only if the following conditions have been met.~~

~~(1) The client is informed, in a manner that assures her or his understanding, of the specific type of information that has been requested, and the period of time for which the information has been requested.~~

~~(2) The client is informed of the purpose or need for the information.~~

~~(3) Services are not contingent upon the client's decision concerning authorization for the release of information.~~

~~(4) The client gives her or his consent freely and voluntarily.~~

~~(5) Fulfillment of the conditions for consent in (1) through (4) above shall be documented in the client record.~~

~~(c) Compliance with 450:19-5-9 shall be determined by a review of the program's policy and procedures manual.~~

450:19-5-10. Confidentiality of mental health and drug or alcohol abuse treatment information

(a) All mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are

both privileged and confidential. In addition, the identity of all consumers who have received or are receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged. Such information shall only be available to persons or agencies actively engaged in the treatment of the consumer unless a state or federal law exception applies.

(b) All facilities shall have policy and procedures protecting the confidential and privileged nature of mental health and drug or alcohol abuse treatment information in compliance with state and federal law and which contain at a minimum:

(1) an acknowledgment that all mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(2) an acknowledgment that the identity of a consumer who has received or is receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(3) a procedure to limit access to mental health and drug or alcohol abuse treatment information to only those persons or agencies actively engaged in the treatment of the patient and to the minimum amount of information necessary to carry out the purpose for the release;

(4) a procedure by which a consumer, or the consumer's legally authorized representative, may access the consumer's mental health and drug or alcohol abuse treatment information;

(5) an acknowledgement that certain state and federal law exceptions to disclosure of mental health and drug or alcohol abuse treatment information without the written consent of the consumer or the consumer's legally authorized representative exist and the facility will release information as required by those laws and

(6) a procedure by which to notify a consumer of his or her right to confidentiality.

(c) A facility disclosing information pursuant to a written consent to release information shall ensure the written consent form complies with all applicable state and federal law and contains at a minimum the following:

(1) the name of the person or program permitted to make the disclosure;

(2) the name or title of the person or the name of the organization to which disclosure is to be made;

(3) the name of the consumer whose records are to be released;

(4) a description of the information to be disclosed;

(5) the specific reason for the disclosure;

(6) the signature of the consumer or the consumer's legally authorized representative;

(7) the date the consent to release was signed by the consumer or the consumer's legally authorized representative;

(8) an expiration date, event or condition which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given;

(9) a statement of the right of the consumer, or the consumer's legally authorized representative, to revoke the consent to release in writing and a description of how the patient may do so;

(10) a confidentiality notice which complies with state and federal law; and

(11) a statement in bold face writing that "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)."

(d) Compliance with 450:19-5-10 shall be determined by a review of facility policy and procedures; facility forms; consumer record reviews; interviews with staff and consumers; and any other supporting facility documentation.

*[OAR Docket #03-357; filed 3-5-03]
(format accepted 3-6-03)*

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 23. STANDARDS AND CRITERIA
FOR COMMUNITY-BASED STRUCTURED
CRISIS CENTERS**

[OAR Docket #03-358]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 7. Confidentiality
450:23-7-1 [REVOKED]
450:23-7-1.1 [NEW]
450:23-7-2 [REVOKED]

AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 2-202, 3-306 and 3-317

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The federally mandated Health Insurance Portability and Accountability Act (HIPAA) requires health care providers to implement additional security and privacy initiatives relative to individuals' health information by April 1, 2003. Non-compliance with HIPAA may result in monetary penalties. These rule revisions are needed to timely bring ODMHSAS into compliance with HIPAA and avoid monetary penalties.

Emergency Adoptions

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 23 are part of the Department's review of Title 450 and are intended to bring ODMHSAS into compliance with HIPAA requirements regarding standards addressing the privacy and security of confidential client health information.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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 7. CONFIDENTIALITY

450:23-7-1. Confidentiality, mental health consumer information and records [REVOKED]

(a) Consumer records and clinical information are confidential, and are protected under the provisions of 43A O.S. §§ 1-109, 3-422 and 3-423; 63 O.S. § 1-502.2 and (U.S.) 42 CFR, Part 2. The CBSCC shall have policy and procedures protecting this confidentiality which shall be communicated to the consumer including, but not limited to:

(1) Consumer records and all communications between consumer and doctor or psychotherapist are privileged and confidential, with such information limited to entities actively engaged in treatment of the consumer or related administrative tasks.

(2) Privileged and confidential information shall not be released to any person or entity not involved in the consumer's treatment without the written, informed consent of the consumer, or his or her guardian, or parent of a minor child, or a private or public child care agency having legal custody of the minor child.

(3) Identifying information shall be released without the consent required in 450:23-7-1(a)(2) under any of the following conditions:

(A) When required to fulfill any statutorily required reporting of child abuse pursuant to the Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101-7115.0, or of abuse of elderly or incapacitated adults pursuant to 43A O.S. § 10-104. All treatment staff shall have a general knowledge of the provisions of these laws. The Child Abuse Reporting and Prevention Act applies only to initial reports of child abuse or neglect, and not to requests for additional information or records. Thus, court orders are still required before records may be used to initiate or substantiate any criminal charges against a consumer, or to conduct any investigation of a consumer.

(B) Release is required as provided by 10 O.S. §§ 7005-1.1 through 7005-1.3.

(C) On the order of a court of competent jurisdiction.

(D) Between holders of contracts with ODMHSAS having signed a qualified service agreement (43A

~~O.S. § 1-109(A)(2)), as provided by said contract. These facilities shall have policy and procedures to permit transmittal of records and information regarding the care and treatment of a specific consumer as necessary and appropriate between them or ODMHSAS, or another contracted holder of a qualified service agreement.~~

(4) ~~The manner of personal access of a present or former consumer to his or her records shall conform to the provisions of 43A O.S. § 1-109(B).~~

(5) ~~With the consent of the consumer, information may be provided to responsible family members as provided for and limited in 43A O.S. § 1-109(C)(1 through 5).~~

(6) ~~The reviews of records by state or federal licensing, accrediting, certifying, or funding agencies may occur to verify services, or CBSCC compliance with statutes and regulations.~~

(7) ~~A written consent for release of confidential information form shall be used, which contains and encompasses:~~

(A) ~~The consumer being informed of the reason and need for the information release, the specific information to be released, and the period of time covered by the information to be released.~~

(B) ~~The consumer being informed that treatment services are not contingent upon, or influenced by, his/her decision to permit the information release.~~

(C) ~~The consumer's consent being given freely and voluntarily.~~

(D) ~~The following information shall appear on the consent to release of confidential information form:~~

(i) ~~The name and address of the facility making the disclosure of information; and the name and title of the person completing the disclosure.~~

(ii) ~~The name of the person, title (if any), and name of the organization (if any) to which the information is being supplied.~~

(iii) ~~The name of the consumer.~~

(iv) ~~The exact extent of information being disclosed.~~

(v) ~~The length of time the consent will remain valid unless otherwise revoked, in writing, by the consumer.~~

(vi) ~~Signature of the consumer, or legal guardian, and the date of such signature.~~

(vii) ~~Notice in bold face type stating, "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS) [63 O.S. § 1-1502(B)]"~~

(b) ~~In addition, the CBSCC shall have policy and procedures which shall:~~

(1) ~~Limit access to records to persons with a need to know;~~

(2) Provide for the safe storage of consumer records under lock and key; and

(3) Provide for stated periods of retention of closed consumer records, and subsequent disposition of the records.

(e) Compliance with 450:23-7-1 shall be determined by a review of CBSCC policy and procedures; CBSCC forms; consumer record reviews; interviews with staff and consumers; and any other supporting CBSCC documentation.

450:23-7-1.1. Confidentiality of mental health and drug or alcohol abuse treatment information

(a) All mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential. In addition, the identity of all consumers who have received or are receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged. Such information shall only be available to persons or agencies actively engaged in the treatment of the consumer unless a state or federal law exception applies.

(b) All facilities shall have policy and procedures protecting the confidential and privileged nature of mental health and drug or alcohol abuse treatment information in compliance with state and federal law and which contain at a minimum:

(1) an acknowledgment that all mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(2) an acknowledgment that the identity of a consumer who has received or is receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(3) a procedure to limit access to mental health and drug or alcohol abuse treatment information to only those persons or agencies actively engaged in the treatment of the patient and to the minimum amount of information necessary to carry out the purpose for the release;

(4) a procedure by which a consumer, or the consumer's legally authorized representative, may access the consumer's mental health and drug or alcohol abuse treatment information;

(5) an acknowledgement that certain state and federal law exceptions to disclosure of mental health and drug or alcohol abuse treatment information without the written consent of the consumer or the consumer's legally authorized representative exist and the facility will release information as required by those laws and

(6) a procedure by which to notify a consumer of his or her right to confidentiality.

(c) A facility disclosing information pursuant to a written consent to release information shall ensure the written consent form complies with all applicable state and federal law and contains at a minimum the following:

(1) the name of the person or program permitted to make the disclosure;

(2) the name or title of the person or the name of the organization to which disclosure is to be made;

(3) the name of the consumer whose records are to be released;

(4) a description of the information to be disclosed;

(5) the specific reason for the disclosure;

(6) the signature of the consumer or the consumer's legally authorized representative;

(7) the date the consent to release was signed by the consumer or the consumer's legally authorized representative;

(8) an expiration date, event or condition which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given;

(9) a statement of the right of the consumer, or the consumer's legally authorized representative, to revoke the consent to release in writing and a description of how the patient may do so;

(10) a confidentiality notice which complies with state and federal law; and

(11) a statement in bold face writing that "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)."

(d) Compliance with 450:19-5-10 shall be determined by a review of facility policy and procedures; facility forms; consumer record reviews; interviews with staff and consumers; and any other supporting facility documentation.

450:23-7-2. Confidentiality, substance abuse consumer information and records [REVOKED]

The rules governing confidentiality of records of consumers for whom substance abuse is a focus of the evaluation and treatment are set forth in OAC Title 450, subchapter 18 and shall be complied with, as particular federal regulations (42 CFR, Part 2) apply to the release of information regarding substance abuse consumers and their records.

[OAR Docket #03-358; filed 3-5-03]
(format accepted 3-6-03)

Emergency Adoptions

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

[OAR Docket #03-359]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions [NEW]
450:50-1-1 [NEW]
450:50-1-2 [NEW]
450:50-1-3 [NEW]
Subchapter 3. Behavioral Health Case Manager Certification Application [NEW]
450:50-3-1 [NEW]
450:50-3-2 [NEW]
450:50-3-3 [NEW]
450:50-3-4 [NEW]
450:50-3-5 [NEW]
450:50-3-6 [NEW]
Subchapter 5. Behavioral Health Case Manager Certification Training [NEW]
450:50-5-1 [NEW]
450:50-5-2 [NEW]
450:50-5-3 [NEW]
450:50-5-4 [NEW]
Subchapter 7. Rules of Professional Conduct [NEW]
450:50-7-1 [NEW]
450:50-7-2 [NEW]
450:50-7-3 [NEW]
450:50-7-4 [NEW]
450:50-7-5 [NEW]
Subchapter 9. Enforcement [NEW]
450:50-9-1 [NEW]

AUTHORITY:

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

DATES:

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January 10, 2003

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February 27, 2003

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

43A O.S. Section 3-318 became effective on November 1, 2002. This section requires the Board of Mental Health and Substance Abuse Services to promulgate rules and standards for certification of behavioral health case managers addressing criteria for certification and renewal, including minimum education requirements, examination and supervision requirement, continuing education requirements and rules of professional conduct.

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rules implement 43A O.S. § 3-318, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify behavioral health case managers.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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

SUBCHAPTER 1. GENERAL PROVISIONS

450:50-1-1. Purpose

This Chapter implements 43A O.S. § 3-318, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify behavioral health case managers. Section 3-318 requires the Board to promulgate rules and standards for certification of behavioral health case managers addressing criteria for certification and renewal, including minimum education requirements, examination and supervision requirement, continuing education requirements and rules of professional conduct.

450:50-1-2. Definitions

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

"Board" means the State Board of Mental Health and Substance Abuse Services.

"Case management" means the application of principles and practices of linking, advocacy and referral in partnership with a consumer services to support the consumer in self-sufficiency and community tenure.

"Certified behavioral health case manager" means any person who is certified by the Department of Mental Health and Substance Abuse Services to offer behavioral health case management services as one of the three (3) classifications of case manager within the confines of a mental health facility, domestic violence or sexual assault facility or drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services.

"Certified Behavioral Health Case Manager-Adult" or "CBHCM-A" means any person who offers behavioral health case management services to adults within the confines of a behavioral health setting and is certified pursuant to the rules and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Certified Behavioral Health Case Manager-Child, Adolescent and Family" or "CBHCM-CAF" means any person who offers behavioral health case management services to children, adolescents and their families within the confines of a behavioral health setting and is certified pursuant to the rules and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Certified Behavioral Health Case Manager-Dual Certification" or "CBHCM-DC" means any person who offers behavioral health case management services to adults and children, adolescents and families within the confines of a behavioral health setting and is certified pursuant to the rules

and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Commissioner" means the Commissioner of Mental Health and Substance Abuse Services.

"Consumer" means an individual who is receiving or has received services (evaluation or treatment) from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in Title 450, Chapters 16, 17, 18, 19 and 23 of the Oklahoma Administrative Code as client(s) or patient(s) or resident(s) or a combination thereof.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Provisionally Certified Behavioral Health Case Manager" means a person who has completed the Department-sponsored training in case management, and is under supervision for completion of the competency-based case management project.

"Supervisor" means a person who is a certified behavioral health case manager and meets the requirements established by the Board to supervise a provisionally certified behavioral health case manager in the completion of the competency-based case management project.

450:50-1-3. Authority of the Commissioner and Department

(a) The Commissioner shall have the authority and duty to issue, renew, revoke, deny, suspend and place on probation certifications to offer behavioral health case management and shall have authority to reprimand certified behavioral health case managers.

- (b) The Department shall have authority to:
- (1) Receive and deposit fees as required by 43A O.S. § 3-318(C);
 - (2) Examine all qualified applicants for certified behavioral health case management; and
 - (3) Investigate complaints and possible violation of the rules and standards of behavioral health case managers.

SUBCHAPTER 3. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION APPLICATION

450:50-3-1. Qualifications for certification

(a) Each applicant for certification as a behavioral health case manager shall:

- (1) Be employed at a mental health facility, domestic violence or sexual assault facility, or approved drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services;
- (2) Complete the competency-based case management project;
- (3) Attend the requisite case management certification training offered by the Department for the specific classification of certification (adult, child, adolescent and family or dual) sought by the applicant;

- (4) Be possessed of good moral character;
- (5) Be at least 21 years of age; and
- (6) Otherwise comply with rules promulgated by the Board implementing 43A O. S. § 3-318.

(b) In addition to the qualifications specified by subsection (a) of this rule, an applicant for a certification as a behavioral health case manager shall:

- (1) Possess a bachelor's degree in a mental health related field earned from a regionally accredited college or university recognized by the United States Department of Education;
- (2) Bachelor's degree in a mental health related field includes, but is not limited to psychology, social work, occupational therapy, family studies, human resources/services counseling, human developmental psychology, gerontology, early childhood development, chemical dependency studies, school guidance and counseling, rehabilitative services, sociology, criminal justice or; a current license as a registered nurse in Oklahoma; and
- (3) Complete a minimum of six (6) weeks of supervised full time experience providing behavioral health case management services under the supervision of a case management supervisor in accordance with section 450:50-3-2 of this chapter.

450:50-3-2. Applications for certification, dual certification, provisional certification

(a) Applications for certification as a behavioral health case manager shall be made in writing to the Department on a form and in a manner prescribed by the Commissioner. The application shall be accompanied by the application fee and official education transcripts.

- (b) An application shall include the following documents:
- (1) Application form completed in full according to its instructions;
 - (2) Official university transcript(s);
 - (3) Documentation of employment at a mental health facility, domestic violence or sexual assault facility, or drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services;
 - (4) Supervision agreement between the applicant and a case management supervisor on a form prescribed by the Department; and
 - (5) Fees.

(c) A completed application must be submitted at least 14 days prior to attending case management certification training.

(d) An applicant, who meets the requirements for certification, has paid the required fees and otherwise complied with this Chapter shall be eligible for certification.

450:50-3-3. Duration of certification

(a) Certification issued pursuant to this Chapter shall require biannual renewal from the date of issuance unless revoked. Certified behavioral health case managers must renew their

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certification prior to the expiration date on the initial certificate and on or before December 31 biannually thereafter.

(b) A certification may be renewed by ODMHSAS upon application and payment of fees. Renewal shall be accomplished by submitting the renewal application, annual report of continuing education and accompanying documentation, and renewal fee.

(c) A certification not renewed by the December 31 deadline, in the year in which certification expires, will be suspended. A suspended certification may be renewed by submitting required fees and documentation of continuing education for a period of no longer than 12 months of the expiration date. Certificates not renewed within the 12 months will not be reinstated.

450:50-3-4. Fees

(a) Application Fee. Twenty-five dollars (\$25.00) shall be submitted with the application form.

(b) Annual Renewal Fee. Fifteen dollars (\$15.00) shall be submitted with the annual renewal application and required continuing education documentation.

(c) Late Renewal Fee. Twenty-five dollars (\$25.00) shall be submitted with the Annual Renewal Fee (\$15.00) renewal application and required continuing education documentation if the certification is renewed after the December 31 deadline.

(d) Replacement Fee. Ten dollars (\$10.00) shall be submitted to replace a certificate that has been lost, damaged or in need of revision.

450:50-3-5. Fitness of applicants

(a) The purpose of this section is to establish the fitness of the applicant as one of the criteria for approval of certification as a Certified Behavioral Health Case Manager and to set forth the criteria by which the Commissioner will determine the fitness of the applicants.

(b) The substantiation of any of the following items related to the applicant may be, as the Commissioner determines, the basis for the denial of or delay of certificate of the applicant:

(1) Lack of necessary skill and abilities to provide adequate services;

(2) Misrepresentation on the application or other materials submitted to the committee; or

(3) A violation of the rules of professional conduct set forth in this Chapter.

(c) The following materials may be used to determine fitness of the applicant:

(1) Evaluations of supervisors or instructors;

(2) Evaluation of competency-based project supervisor;

(3) Allegations of consumers; and

(4) Transcripts or other findings from official court, hearing or investigative procedures.

(d) The Department may require explanation of negative references prior to issuance of certification.

450:50-3-6. Grandfathering

Until June 30, 2003, the Commissioner upon receipt of an applicant's completed application form, fees and applicable official university or college transcripts, shall issue certifications for behavioral health case management to individuals who prior to March 1, 2003 had a minimum of an associates degree or 60 hours of college course work in any field, has attended 24 hours of case management training sponsored by ODMHSAS and two (2) years experience in providing behavioral health case management services.

SUBCHAPTER 5. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION TRAINING

450:50-5-1. Case management certification training

(a) The purpose of this section is to delineate the training requirements for each of the three classifications of certified behavioral health case manager.

(b) The Department shall have the authority and responsibility for the following:

(1) Provide case management training classes on a regular basis but no less than six times during the year; and

(2) Provide supervisor training classes on a regular basis but no less than twice a year.

(c) The adult case management certification training is a 24 hour class that focuses on case management issues of adults receiving services in mental health facilities, domestic violence or sexual assault facilities, or drug or alcohol treatment facilities operated by the Department or contracted with the State to provide behavioral health services. Applicants seeking certification as a certified behavioral health case manager-Adult must attend this training.

(d) The child, adolescent and family case management certification training is a 24 hour class that focuses on case management issues of children and adolescents their families receiving services in mental health facilities, domestic violence or sexual assault facilities or drug or alcohol treatment facilities operated by the Department or contracted with the State to provide behavioral health services. Applicants seeking certification as Certified Behavioral Health Case Manager-Child, Adolescent and Family must attend this training.

(e) Those seeking dual certification must attend one of the two 24-hours classes offered by the Department as well as 12 hours of cross-training in the other area, for a total of 36 hours of training.

(f) The case management competency-based project supervisor training is a six hour class that focuses on the specifics of supervision and the competency-based project. Certified behavioral health case managers who are acting as a competency-based project supervisor are required to attend this training by December 31, 2004.

450:50-5-2. Supervised experience requirements

(a) While under supervision, a provisionally Certified Behavioral Health Case Manager has the same rights, privileges and responsibilities as a fully certified behavioral health case

manager for a period of no longer than six months from the last day of case management certification training class.

(b) Supervised experience shall begin only after completion of the case management certification training. Supervision shall continue throughout the completion of the competency-based case management project for no less than six (6) weeks from the last day of case management certification training class and no longer than 6 months from the last day of case management certification training class.

(c) At the time of application for certified behavioral health case manager, the applicant shall submit to the Department a supervision agreement between the supervisor and applicant/supervisee.

(d) Case management supervisors shall be a certified behavioral health case manager with at least two years experience in behavioral health case management and by December 31, 2004, will have completed the six hours of competency-based project supervisors training.

(e) The supervisor and supervisee shall be jointly responsible for the following:

(1) Ensuring the requirements under this subchapter are fulfilled. A failure to comply; and

(2) Ensuring the consumer's right to confidentiality and the proprietary rights of the supervisor and the supervisee's employer are adhered to during the course of the supervision.

(f) Supervised experience shall consist of the following:

(1) Provision of case management services by a provisionally certified behavioral health case manager to a consumer or consumer and family within the confines of a behavioral health setting to complete the competency based case management project as established in the case management certification training curriculum; and

(2) Individual supervision of the delivery of case management services in conjunction with the completion of the competency based project. Individual supervision shall mean weekly face-to-face contact between the supervisor and the supervisee for duration of the supervision of the competency based project.

(g) Upon completion of the supervision:

(1) The supervisee shall submit a statement signed by the supervisor verifying the supervisee has completed the required supervision and competency-based project; and

(2) The supervisor shall sign and submit an evaluation of supervised experience on a form prescribed by the Department.

(h) The supervisor's signature will appear on required documents within the case management certification project.

450:50-5-3. Case management certification competency-based project

(a) The case management certification project is a competency-based product designed to provide the applicant hands-on experience in specific case management services.

(b) The competency-base project shall be due no earlier than 6 weeks or later than 3 months from the last day of the 24 hour training class as specified on each individual's letter granting provisional certification.

(c) An extension of the due date may be requested by writing the Coordinator of Case Management Development for the Department to extend the project due date for a period of no longer than one (1) month. No more than two (2) requests for extension shall be granted.

(d) ODMHSAS shall return the results of the competency-based project review to the individual within eight (8) weeks of receipt of the project. Unless otherwise specified, ODMHSAS will send the results to the individual at the business address listed on the application. ODMHSAS must receive written notification of change of address.

(1) The Coordinator of Case Management Development or designee shall review the project.

(2) If the project, or any part, is found to be unacceptable, the coordinator shall contact the project supervisor and supervisee in writing with an explanation of necessary corrections. Technical assistance from the Coordinator of Case Management Development or designee shall be available upon request.

(e) Any individual who does not successfully complete the competency based project within the 6 month period of provisional certification will be required to attend case management training class before attempting to complete and submit the project again.

450:50-5-4. Continuing education requirements

(a) Certified behavioral health case managers are required to complete twelve (12) hours continuing education per year and submit documentation of the continuing education to ODMHSAS.

(b) Continuing education is acceptable when it:

(1) Provides information to enhance delivery of case management services; or

(2) Meets the requirements for LPC, LMFT, LBP, LCSW, CADC or CME continuing education; or

(3) Is a required undergraduate or graduate course in a mental health related field and pertains to direct interaction with consumers (three hours of course work is equal to twelve hours in-service); and

(4) Is accrued during each of the two 12 month periods preceding the renewal deadline.

(c) Continuing education may be accrued when the Certified Behavioral Health Case Manager provides supervision of a competency-based case management project. The Certified Behavioral Health Case Manager may accrue 6 hours for supervision of one competency-based project annually.

(d) Certified behavioral health case managers shall retain documents verifying attendance for all continuing education hours claimed for the reporting period. Acceptable verification documents include:

(1) An official continuing education validation form furnished by the presenter;

(2) A letter or certificate from the sponsoring agency verifying name of program, presenter, number of hours attended and participants name;

(3) An official grade transcript verifying completion of the undergraduate or graduate course; or

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- (4) A letter confirming supervision of a competency-based project must be submitted on agency's letterhead and signed by the agency director or clinical director.
- (e) Failure to complete the continuing education requirements and submit the required documentation by the renewal date renders the certification in suspension, and results in the loss of all rights and privileges of a certified behavioral health case manager. Following suspension, the Certified Behavioral Health Case Manager may reinstate the certification for a period of no longer than 12 months following the suspension date. If not reinstated the certification shall become null and void. The Certified Behavioral Health Case Manager has the right to renew the certificate by payment of renewal fees (\$15.00) and late renewal fees (\$25.00) and documentation of obtaining 18 hours of continuing education for a period of no longer than 12 months prior to renewal.

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

450:50-7-1. Responsibility and scope of practice

- (a) Certified behavioral health case managers shall be dedicated to advancing the welfare of individuals, and children and their families. Certified behavioral health case managers shall not participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation, and shall not exploit their relationships with the consumers for personal advantage, profit, satisfaction, or interest.
- (b) Certified behavioral health case managers shall practice only within the boundaries of their competence based on their education, training, supervised experience, state and national accreditations and licenses.
- (c) Certified behavioral health case managers shall only use the title if employed by the state or a private or nonprofit behavioral health services providers contracting with the state to provide behavioral health services.
- (d) Certified behavioral health case managers may not practice any of the following professions or use the following titles unless also licensed or accredited by the appropriate authority: physician, psychologist, clinical social worker, professional counselor, marital and family therapist, behavioral practitioner or alcohol and drug counselor.

450:50-7-2. Consumer welfare

- (a) Certified behavioral health case managers shall not, in the rendering of their professional services, participate in, condone, promote discrimination on the basis of race, color, age, gender, religion or national origin.
- (b) Certified behavioral health case managers must be aware of their influential positions with respect to consumers and not exploit the trust and dependency of consumers. Certified behavioral health case managers shall refrain from dual relationships with consumers because of the potential to impair professional judgment and to increase the risk of harm to consumers.

Examples of such relationships include, but are not limited to familial, social, financial, business, professional or close personal relationships with consumers.

- (1) Certified behavioral health case managers shall not have any type of sexual contact with consumers and shall not provide case management services to persons with whom they have had a sexual relationship.
- (2) Certified behavioral health case managers shall not engage in sexual contact with former consumers for at least two (2) years after terminating the professional relationship.
- (c) If certified behavioral health case managers determine that they are unable to be of professional assistance to a consumer, the Certified Behavioral Health Case Manager shall refer the consumer to appropriate sources when indicated. If the consumer declines the referral the Certified Behavioral Health Case Manager shall terminate the relationship.

450:50-7-3. Reimbursement for services rendered

Certified behavioral health case managers shall practice case management services only if employed by the State or a private or nonprofit behavioral health services provider contracting with the state to provide behavioral health services. As an employee of a state or a private or nonprofit behavioral health agency reimbursement for services rendered will not be collected outside of the agency's system of service reimbursement.

450:50-7-4. Professional standards

- (a) It shall be unprofessional conduct for a Certified Behavioral Health Case Manager to violate a state or federal statute if the violation directly related to the duties and responsibilities of the counselor or if the violation involves moral turpitude.
- (b) Certified behavioral health case managers shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.
- (c) Certified behavioral health case managers shall notify the Department of any change in address, telephone number and employment.

450:50-7-5. Failure to comply

A Certified Behavioral Health Case Manager who does not comply with the Rules of Professional Conduct shall be guilty of unprofessional conduct and subject to disciplinary action.

SUBCHAPTER 9. ENFORCEMENT

450:50-9-1. Enforcement

- (a) ODMHSAS may impose administrative sanctions, including revocation, suspension, non-renewal of certification and reprimand, against certified behavioral health case managers.

(b) All proceedings, hearing and appeals shall be conducted in accordance with Chapter 1 of the Rules of ODMHSAS, Title 450 Oklahoma Administrative Code and the Administrative Procedures Act.

[OAR Docket #03-359; filed 3-5-03]
(format accepted 3-6-03)

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 55. STANDARDS AND CRITERIA FOR PROGRAMS FOR ASSERTIVE COMMUNITY TREATMENT

[OAR Docket #03-360]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions [NEW]
450:55-1-1 [NEW]
450:55-1-2 [NEW]
450:55-1-3 [NEW]
Subchapter 3. Program Description and PACT Services [NEW]
450:55-3-1 [NEW]
450:55-3-2 [NEW]
450:55-3-3 [NEW]
450:55-3-4 [NEW]
450:55-3-5 [NEW]
450:55-3-6 [NEW]
450:55-3-7 [NEW]
450:55-3-8 [NEW]
450:55-3-9 [NEW]
450:55-3-10 [NEW]
Subchapter 5. PACT Clinical Documentation [NEW]
450:55-5-1 [NEW]
450:55-5-2 [NEW]
450:55-5-3 [NEW]
450:55-5-4 [NEW]
450:55-5-5 [NEW]
450:55-5-6 [NEW]
450:55-5-7 [NEW]
450:55-5-8 [NEW]
450:55-5-9 [NEW]
450:55-5-10 [NEW]
450:55-5-11 [NEW]
Subchapter 7. Confidentiality [NEW]
450:55-7-1 [NEW]
Subchapter 9. Consumer Rights [NEW]
450:55-9-1 [NEW]
450:55-9-2 [NEW]
450:55-9-3 [NEW]
Subchapter 11. Organizational Management [NEW]
450:55-11-1 [NEW]
450:55-11-2 [NEW]
450:55-11-3 [NEW]
Subchapter 13. Performance Improvement and Quality Management [NEW]
450:55-13-1 [NEW]
450:55-13-2 [NEW]
Subchapter 15. Personnel [NEW]
450:55-15-1 [NEW]
450:55-15-2 [NEW]
Subchapter 17. Staff Development and Training [NEW]
450:55-17-1 [NEW]
450:55-17-2 [NEW]

- 450:55-17-3 [NEW]
Subchapter 19. Facility Environment [NEW]
450:55-19-1 [NEW]
450:55-19-2 [NEW]
Subchapter 21. Governing Authority [NEW]
450:55-21-1 [NEW]
Subchapter 23. Special Populations [NEW]
450:55-23-1 [NEW]
450:55-23-2 [NEW]

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306 and 3-319

DATES:

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Approved by Governor:

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Expiration:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

43A O.S. Section 3-319 became effective on November 1, 2002. This section requires the Board of Mental Health and Substance Abuse Services to promulgate rules and standards for certification of programs for assertive community treatment.

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rules implement 43A O.S. § 3-319, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify programs for assertive community treatment.

CONTACT PERSON:

Linda Winton, Agency Liaison Officer, (405) 522-6567

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

SUBCHAPTER 1. GENERAL PROVISIONS

450:55-1-1. Purpose

(a) This Chapter implements 43A O.S. § 3-319, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify programs for assertive community treatment. Section 3-319 requires the Board to promulgate rules and standards for certification of facilities or organizations that desire to be certified.

(b) The rules regarding the certification procedures including applications, fees and administrative sanctions are found in the Oklahoma Administrative Code, Title 450, Chapter 1, Subchapters 5 and 9.

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450:55-1-2. Definitions

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

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment and other credentials.

"Consumer" means an individual who has applied for, is receiving, or has received services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 Chapters 15, 16, 17, 18, 19, 23, 30 and 55 as consumer(s) or patient(s) or resident(s) or a combination thereof.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are experiencing a mental health or substance abuse crisis.

"Crisis stabilization" means emergency psychiatric and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment and referral.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumer or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"DSM" means the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"FTE" means an employee, or more than one, who work(s) the time equivalent to the number of hours per week, month or year of one (1) employee working full-time.

"Historical time line" means a method by which a specialized form is used to gather, organize and evaluate historical information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Individual Treatment Team" or "ITT" means the primary case manager and a minimum of two other clinical staff on the PACT team who are responsible to keep the consumer's treatment coordinated, monitor their services, coordinate staff activities and provide information and feedback to the whole team.

"Integrated Client Information System" or "ICIS" is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing

patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Linkage services" means the communication and coordination with other service providers pursuant to a valid release that assure timely appropriate referrals between the PACT program and other providers.

"Mental Health Professional" means:

(A) Physicians with a current license and board certification in psychiatry or board eligible, or a current resident in psychiatry, where the services provided to a DMHSAS funded program are within the scope of the supervised residency program. Other licensed physicians experienced in behavior health counseling practices may be considered, if the facility has verified sufficient training and experience in the areas of practice for which the ICIS service is being reported; or

(B) Practitioners with a license to practice or those actively and regularly receiving board approved supervision to become licensed by one of the following licensing boards: Psychology, Social Work (clinical specialty), Professional Counselor, or Marriage and Family Therapist; or Licensed Behavioral Practitioners; or

(C) Advanced Practice Nurse (certified in psychiatric mental health specialty) licensed as a registered nurse with a current certification of recognition by the Oklahoma State Board of Nursing.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

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

"Peer Specialist" is a member of the PACT team who is or has been a recipient of mental health services for a serious mental illness.

"Performance Improvement" or "PI" means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

"Persons with special needs" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf/hearing impaired, visually impaired,

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

"Primary Case Manager" is a certified behavioral health case manager assigned by the team leader to coordinate and monitor activities of the ITT, has primary responsibility to write the treatment plan and make revisions to the treatment plan and weekly schedules.

"Program Assistant" is a member of the PACT team providing duties supportive of the Team and may include organizing, coordinating, and monitoring non-clinical operations of the PACT, providing receptionist activities and coordinating communication between the team and consumers

"Program for Assertive Community Treatment" or **"PACT"** means a clinical program that provides continuous treatment, rehabilitation and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological description of services provided to a consumer, the consumer's progress, or lack of, and documentation of the consumer's response related to the intervention plan.

"Team Leader" is the clinical and administrative supervisor of the PACT team who also functions as a practicing clinician. The team leader is responsible for monitoring each consumer's clinical status and response to treatment as well as supervising all staff and their duties as specified by their job descriptions.

450:55-1-3. Applicability

The standards and criteria for services as subsequently set forth in this chapter are applicable to PACT programs as stated in each subchapter.

SUBCHAPTER 3. PROGRAM DESCRIPTION AND PACT SERVICES

450:55-3-1. General program description and target population

A PACT must be a self-contained clinical program that assures the fixed point of responsibility for providing treatment, rehabilitation and support services to consumers with serious mental illnesses. The PACT team shall use an integrated service approach to merge clinical and rehabilitation staff expertise, such as psychiatric, substance abuse, employment, within one service delivery team, supervised by a qualified program director. Accordingly, there shall be a minimal referral of consumers to other program entities for treatment, rehabilitation, and support services. The PACT staff is responsible to ensure services are continuously available in natural settings for the consumer in a manner that is courteous, helpful and respectful.

450:55-3-2. Admission criteria

(a) The PACT program shall maintain written admission policies and procedures that, at a minimum include the following:

(b) Priority shall be given to people with a primary diagnosis of schizophrenia or other psychotic disorders, such as schizoaffective disorder or bipolar disorder with psychotic features as defined by the current DSM, and with at least four (4) of the following:

- (1) At least four (4) psychiatric hospitalizations in the past 2 years;
- (2) Eminent risk of losing housing or homeless;
- (3) Legal Involvement;
- (4) Inability to meet basic survival needs;
- (5) Inability to participate in traditional office-based services; or
- (6) Co-existing substance abuse.

(c) Individuals with a primary diagnosis of a substance use disorder, Axis II disorders or mental retardation are not appropriate for admission to PACT services.

(d) Compliance with 450:55-3-2 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-3. Total case load and admission rate

(a) The PACT shall maintain written policies and procedures that at a minimum include the following criteria in reference to the total case load and what frequency consumers are admitted into the program:

- (1) A staff-to-consumer ratio of no more than ten (10) consumers for each staff person. The psychiatrist and program assistant are not included in determining the staff-to-consumer ratio;
- (2) No more than 5 consumers admitted per month into the program; and
- (3) PACT teams with 6.5 or less FTEs, excluding the psychiatrist and program assistant, no more than 3 consumers admitted per month.

(b) Compliance with 450:55-3-3 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-4. Discharge criteria

The PACT shall maintain written discharge policies and procedures that at a minimum include the following discharge criteria:

- (1) The consumer and program staff mutually agree to the termination of services after all attempts to engage the consumer in the program fail; or
- (2) The consumer moves outside the geographic area covered by the team. In such cases, the PACT team shall arrange for transfer of mental health service responsibility to a provider where the consumer is moving. The PACT team shall maintain contact with the consumer until the service transfer is arranged; or

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(3) The consumer demonstrates an ability to function in all major role areas, i.e., work, social, self-care, without requiring assistance from the program. Such a determination shall be made by both the consumer and the PACT team; or

(4) The consumer becomes physically unable to benefit from the services.

(5) Compliance with 450:55-3-4 shall be determined by on-site observation and a review of the following: clinical records and the PACT policy and procedures.

450:55-3-5. Hours of operation and staff coverage

The PACT program shall assure adequate coverage to meet consumers' needs including but not limited to:

(1) The PACT team shall be available to provide treatment, rehabilitative and support services seven days per week, every holiday and evenings. The PACT team hours of operation for a team size of seven (7) or more FTEs, excluding the psychiatrist and program assistant, shall be weekdays, Monday through Friday, two eight-hour-shifts per day overlapping 12 hours of coverage and eight (8) hours of coverage with a minimum of two (2) staff on weekends and holidays. For a team size that is 6.5 FTEs or less, excluding the psychiatrist and program assistant, the PACT team will utilize overlapping shifts to cover evenings. The consumer's needs as specified in the treatment plan shall drive the hours of operation.

(2) The PACT team shall operate an after-hours on-call system. PACT team staff who are experienced in the program and skilled in crisis-intervention procedures shall be on call and available to respond to consumers by telephone or in person.

(3) Psychiatric backup shall also be available during all after hour's periods. If availability of the PACT team's psychiatrist during all hours is not feasible, alternative psychiatric backup shall be arranged.

(4) Compliance with 450:55-3-5 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-6. Service intensity

(a) The PACT team is the primary provider of services and has the responsibility to meet the consumer's multiple treatment, rehabilitation and supportive needs with minimal referrals to external agencies for services.

(b) The PACT team shall have the capacity to provide multiple contacts per week to consumers experiencing severe symptoms or significant problems in daily living.

(c) The PACT team shall provide an average of three contacts per week for each consumer, unless otherwise clinically indicated.

(d) Each team shall provide at least 75 percent of service contacts in the community, in non-office or non-facility based settings.

(e) Each PACT team shall maintain data to verify the service contact mandates are being met.

(f) Compliance with 450:55-3-6 shall be determined by on-site observation; and a review of the following: clinical records; ICIS information; and the PACT policy and procedures.

450:55-3-7. Staffing requirements

(a) The PACT team shall include individuals qualified to provide the required services.

(b) Each PACT team shall have the following minimum staffing configuration:

(1) A full-time team leader who is the clinical and administrative supervisor of the team and also functions as a practicing clinician on the PACT team. The team leader shall be a Mental Health Professional;

(2) A psychiatrist on a full-time or part-time basis for a minimum of 16 hours per week for every 50 consumers. The psychiatrist shall provide clinical services to all PACT consumers, work with the team leader to monitor each consumer's clinical status and response to treatment, supervise staff delivery of services, and direct psychopharmacologic and medical treatment;

(3) At least two (2) full-time registered nurses on each team. Teams that serve greater than 65 consumers shall have three (3) full-time registered nurses;

(4) At least one (1) additional full-time Mental Health Professional. Teams that serve more than 65 consumers shall have a minimum of two (2) additional full-time Mental Health Professionals; and,

(5) At least two (2) full-time behavioral health case managers;

(6) At least one staff member on teams serving greater than 65 consumers must be qualified as a substance abuse treatment professional.

(7) A minimum of one-half (0.5) time peer specialist shall be included on each team serving 65 or less consumers and one (1.0) full-time for programs serving greater than 65 consumers, or a member of the team must meet the qualifications for the peer specialist and serve as that function for the team. Peer specialists shall be fully integrated team members.

(8) A minimum of one half (0.5) time program assistant included on each team serving 65 or less consumers and one (1.0) full-time for programs serving greater than 65 consumers on the team. Program assistants shall be responsible for organizing, coordinating, and monitoring non-clinical operations of the PACT including but not limited to managing clinical records, operating and coordinating the management information system, maintaining accounting and budget records for consumer and program expenditures, and providing receptionist activities including triaging calls and coordinating communication between the team and consumers.

(c) Compliance with 450:55-3-7 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-8. Staff communication and planning

(a) The PACT team shall maintain a written daily log, using either a notebook or cardex. The daily log shall document:

- (1) A roster of the consumers served in the program; and,
- (2) For each consumer, brief documentation of any treatment or service contacts which have occurred during the day and a concise, behavioral description of the consumer's daily status.

(b) The PACT team shall have daily organizational staff meetings at regularly scheduled times as prescribed by the team leader. Daily organizational staff meetings shall be conducted in accordance with the following procedures:

- (1) A review of the daily log, to update staff on the treatment contacts which occurred the day before and to provide a systematic means for the team to assess the day-to-day progress and status of all consumers;
- (2) A review by the shift manager of all the work to be done that day as recorded on the daily staff assignment schedule. During the meeting, the shift manager shall assign and supervise staff to carry out the treatment and service activities scheduled to occur that day, and the shift manager shall be responsible for assuring that all tasks are completed; and
- (3) Revise treatment plans as needed, plan for emergency and crisis situations, and add service contacts to the daily staff assignment schedule per the revised treatment plans.

(c) The PACT team, under the direction of the team leader, shall maintain a weekly schedule for each consumer. The weekly consumer schedule is a written schedule of all treatment and service contacts which staff must carry out to fulfill the goals and objectives in the consumer's treatment plan. The team shall maintain a central file of all weekly consumer schedules.

(d) The PACT team, under the direction of the team leader, shall develop a daily staff assignment schedule from the central file of all weekly consumer schedules. The daily staff assignment schedule is a written timetable for all consumer treatment and service contacts, to be divided and shared by the staff working on that day.

(e) Compliance with 450:55-3-8 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-9. Clinical supervision

(a) Each PACT team shall have a written policy for clinical supervision of all staff providing treatment, rehabilitation, and support services. The team leader and or a clinical staff designee shall assume responsibility for supervising and directing all PACT team staff activities.

(b) This supervision and direction shall minimally consist of:

- (1) Periodic observation, in which the supervisor accompanies an individual staff member to meet with consumers in regularly scheduled or crisis meetings to assess

the staff member's performance, give feedback, and model alternative treatment approaches; and

(2) Participation with team members in daily organizational staff meetings and regularly scheduled treatment planning meetings to review and assess staff performance and provide staff direction regarding individual cases.

(c) Compliance with 450:55-3-9 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-10. Required services

(a) The PACT program shall minimally provide the following comprehensive treatment, rehabilitation, and support services as a self-contained service unit on a continuous basis. The PACT program shall provide or make arrangements for treatment services, which shall minimally include:

(b) Crisis intervention. Crisis intervention shall be provided to individuals who are in crisis as a result of a mental health or substance abuse related problem.

(1) Crisis intervention services shall be provided in the least restrictive setting possible, and be accessible to individuals within the community in which they reside.

(2) Crisis assessment and intervention shall be provided 24 hours per day, seven days per week. These services will include telephone and face-to-face contact and will be provided in conjunction with the local mental health system's emergency services program as appropriate.

(3) Crisis intervention services shall include, but not be limited to, the following service components and each shall have written policy and procedures:

(A) Psychiatric crisis intervention; and

(B) Drug and alcohol crisis intervention.

(c) Symptom assessment, management and individual supportive therapy. The PACT shall provide symptom assessment, management, and individual supportive therapy to help consumers cope with and gain mastery over symptoms and impairments in the context of adult role functioning. This therapy shall include but not necessarily be limited to the following:

(1) Ongoing assessment of the consumer's mental illness symptoms and the consumer's response to treatment;

(2) Education of the consumer regarding his or her illness and the effects and side effects of prescribed medications, where appropriate;

(3) Symptom-management efforts directed to help each consumer identify the symptoms and occurrence patterns of his or her mental illness and develop methods (internal, behavioral, or adaptive) to help lessen their effects; and,

(4) Psychological support to consumers, both on a planned and as-needed basis, to help them accomplish their personal goals and to cope with the stresses of day-to-day living.

(d) Medication prescription, administration, monitoring, and documentation. The PACT shall have medication policies and procedures that are specific to the PACT program and meet the unique needs of the consumers served. All policies

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and procedures shall comply with local, state and federal pharmacy and nursing laws.

- (1) Medication related policies and procedures shall identify processes to:
 - (A) Record physician orders;
 - (B) Order medication;
 - (C) Arrange for all consumer medications to be organized by the team and integrated into consumers' weekly schedules and daily staff assignment schedules;
 - (D) Provide security for medications and set aside a private designated area for set up of medications by the team's nursing staff; and
 - (E) Administer delivery of and provide assistance with medications to program consumers.
- (2) The PACT team psychiatrist shall minimally:
 - (A) Assess each consumer's mental illness symptoms and behavior and prescribe appropriate medication;
 - (B) Regularly review and document the consumer's symptoms of mental illness as well as his or her response to prescribed medication treatment;
 - (C) Educate the consumer regarding his or her mental illness and the effects and side effects of medication prescribed to regulate it; and
 - (D) Monitor, treat, and document any medication side effects.
- (3) All qualified PACT team members shall assess and document the consumer's mental illness symptoms and behavior in response to medication and shall monitor for medication side effects.
- (e) Rehabilitation. The PACT shall provide or make arrangements for rehabilitation services. The PACT shall provide work-related services shall be provided as needed to help consumers find and maintain employment in community-based job sites. These services shall include but not be limited to:
 - (1) Assessment of job-related interests and abilities, through a complete education and work history assessment as well as on-the-job assessments in community-based jobs;
 - (2) Assessment of the effect of the consumer's mental illness on employment, with identification of specific behaviors that interfere with the consumer's work performance and development of interventions to reduce or eliminate those behaviors;
 - (3) Development of an ongoing employment rehabilitation plan to help each consumer establish the skills necessary to find and maintain a job;
 - (4) Individual supportive therapy to assist consumers to identify and cope with the symptoms of mental illness that may interfere with their work performance;
 - (5) On-the-job or work-related crisis intervention; and
 - (6) Work-related supportive services, such as assistance with grooming and personal hygiene, securing of appropriate clothing, wake-up calls, and transportation.

(f) Substance abuse services. The PACT shall provide substance abuse services as needed by consumers. These shall include but not be limited to individual and group interventions to assist consumers to:

- (1) Identify substance use, effects and patterns;
 - (2) Recognize the relationship between substance use and mental illness and psychotropic medications;
 - (3) Develop motivation for decreasing substance use; and
 - (4) Develop coping skills and alternatives to minimize substance use and achieve periods of abstinence and stability.
- (g) Services to support activities of daily living. The PACT shall provide as needed services to support activities of daily living in community-based settings. These shall include individualized assessment, problem solving, side-by-side assistance and support, skill training, ongoing supervision, e.g. prompts, assignments, monitoring, encouragement, and environmental adaptations to assist consumers to gain or use the skills required to:
- (1) Carry out personal hygiene and grooming tasks;
 - (2) Perform household activities, including house cleaning, cooking, grocery shopping, and laundry;
 - (3) Find housing which is safe and affordable (e.g., apartment hunting, finding a roommate, landlord negotiations, cleaning, furnishing and decorating, procuring necessities, such as telephone, furnishings, linens, etc.);
 - (4) Develop or improve money-management skills;
 - (5) Use available transportation; and
 - (6) Have and effectively use a personal physician and dentist.
- (h) Social, interpersonal relationship and leisure-time skill training. The PACT shall provide as needed services to support social, interpersonal relationship, and leisure-time skill training to include supportive individual therapy, e.g., problem solving, role-playing, modeling, and support, etc.; social-skill teaching and assertiveness training; planning, structuring, and prompting of social and leisure-time activities; side-by-side support and coaching; and organizing individual and group social and recreational activities to structure consumers' time, increase their social experiences, and provide them with opportunities to practice social skills and receive feedback and support required to:
- (1) Improve communication skills, develop assertiveness and increase self-esteem as necessary;
 - (2) Develop social skills, increase social experiences, and where appropriate, develop meaningful personal relationships;
 - (3) Plan appropriate and productive use of leisure time;
 - (4) Relate to landlords, neighbors, and others effectively; and
 - (5) Familiarize themselves with available social and recreational opportunities and increase their use of such opportunities.
- (i) The PACT will assign each consumer a primary case manager who coordinates and monitors the activities of the individual treatment team and has primary responsibility to write the treatment plan, to provide individual supportive therapy, to

ensure immediate changes are made in treatment plans as consumer's needs change and to advocate for consumer rights and preferences.

(j) The PACT shall provide support and direct assistance to ensure that consumers obtain the basic necessities of daily life that includes but are not necessarily limited to:

- (1) Medical and dental services;
- (2) Safe, clean, affordable housing;
- (3) Financial support;
- (4) Social services;
- (5) Transportation; and
- (6) Legal advocacy and representation.

(k) The PACT shall provide services as needed on behalf of identified consumers to their families and other major supports, with consumer's written consent, which includes the following:

- (1) Education about the consumer's illness and the role of the family in the therapeutic process;
- (2) Intervention to resolve conflict; or
- (3) Ongoing communication and collaboration, face-to-face and by telephone, between the PACT team and the family.

(l) Compliance with 450:55-3-10 shall be determined by on-site observation, a review of the clinical records, ICIS information and the PACT policy and procedures.

SUBCHAPTER 5. PACT CLINICAL DOCUMENTATION

450:55-5-1. Clinical record keeping system

(a) Each PACT shall maintain an organized clinical record keeping system to collect and document information appropriate to the treatment processes. This system shall be organized with easily retrievable, usable clinical records stored under confidential conditions and with planned retention and disposition. For each consumer, the PACT team shall maintain a treatment record that is confidential, complete, accurate, and contains up-to-date information relevant to the consumer's care and treatment.

(b) The team leader and the program assistant shall be responsible for the maintenance and security of the consumer clinical records.

(c) The consumer's clinical records shall be located at PACT team's main office and, for confidentiality and security, are to be kept in a locked file.

(d) The program shall comply with Chapter 17 Subchapter 7, Facility Clinical Record requirements except for 450:17-7-5, 450:17-7-7, 450:17-7-8 and 450:17-7-12.

(e) Compliance with 450:55-5-1 shall be determined by on-site observation, a review of PACT policy, procedures or operational methods, clinical records and other PACT provided documentation.

450:55-5-2. Basic requirements

(a) Each PACT program shall have policies and procedures requiring the following:

(1) All consumer records shall contain the defined required documentation.

(2) Storage, retention and destruction requirements for consumer records.

(3) Records maintained in locked equipment under secure measures;

(4) Entries in consumer records shall be legible, signed with first name, last name, credentials, and dated by the person making the entry; and

(5) The consumer's name typed or written on each sheet of paper or page in the consumer record.

(b) Compliance with 450:55-5-2 shall be determined by on-site observation, a review of PACT policy, procedures or operational methods, clinical records, other PACT provided documentation and PI information and reports.

450:55-5-3. Documentation of individual treatment team members

(a) The PACT shall document in the clinical record the consumer was assessed to determine appropriateness of admission to PACT in accordance with the program admission criteria.

(b) The clinical record shall document the team leader has assigned the consumer a psychiatrist, primary case manager, and individual treatment team (ITT) members within one (1) week of admission.

(c) Compliance with 450:55-5-3 shall be determined by on-site observation and a review of the following: clinical records and the PACT policy and procedures.

450:55-5-4. Initial assessment

(a) The initial assessment data shall be collected and evaluated by PACT team leader or appropriate staff designated by the team leader. Such assessments shall be based upon all available information, including self-reports, reports of family members and other significant parties, and written summaries from other agencies, including police, courts, and outpatient and inpatient facilities, where applicable, culminating in a comprehensive initial assessment.

(b) The initial assessment shall contain, but not be limited to, the following identification data:

(1) Consumer name;

(2) Home address;

(3) Telephone number;

(4) Referral source;

(5) Reason for referral;

(6) Significant other of the consumer to be notified in case of emergency;

(7) ICIS intake data core content;

(8) Presenting problem and disposition; and

(9) A record of pertinent information regarding adverse reactions to drugs, drug allergies, or sensitivities shall be obtained during intake and kept in a highly visible location in or on the record.

(c) Consumer assessment information for admitted consumers shall be completed on the day of admission to the PACT and shall contain, but not be limited to, the following:

(1) Psychosocial evaluation that minimally addresses:

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- (A) The consumer's strengths and abilities to be considered during community re-entry; and
- (B) An initial discharge plan.
- (2) Interpretive summary of relevant assessment findings that results in the development of an intervention plan;
- (3) An intervention plan that minimally addresses the consumer's:
 - (A) Presenting crisis situation that incorporates the identified problem(s);
 - (B) Strengths and abilities;
 - (C) Needs and preferences;
 - (D) Goals and objectives; and
- (4) Initial Treatment plan to cover the time-frame between admission and when the comprehensive treatment plan is valid shall include:
 - (A) Recommendations from the consumer;
 - (B) Consumers immediate needs
 - (C) Services that will be provided by the PACT team; and
 - (D) Recommendations from the team leader or psychiatrist
- (d) Compliance with 450:55-5-4 shall be determined by a review of the following: intake assessment instruments and other intake documents of the PACT program, clinical records and other agency documentation of admission materials or requirements.

450:55-5-5. Comprehensive assessment

- (a) The consumer's psychiatrist, primary PACT case manager, and individual treatment team members shall prepare the written comprehensive assessment within six (6) weeks of admission.
- (b) The comprehensive assessment shall include a written narrative report for each of the following areas:
 - (1) Psychiatric history, mental status, and a current DSM diagnosis, to be completed by the PACT psychiatrist;
 - (2) Medical, dental, and other health needs to be completed by a PACT registered nurse;
 - (3) Extent and effect of drugs or alcohol use completed by a team professional as approved by the team leader;
 - (4) Extent and effect of any violence within the consumer's living situation(s) or personal relationships;
 - (5) The current version of the Alcohol Severity Index (ASI) within the first 6 weeks of admission and as clinically indicated thereafter;
 - (6) Education and employment;
 - (7) Social development and functioning by a team professional as approved by the team leader;
 - (8) Activities of daily living, to be completed the team professional or peer specialist under the supervision of the team leader;
 - (9) Family structure and relationships by a team professional as approved by the team leader; and
 - (10) Historical timeline by all team members under the supervision of the team leader.

- (c) The team leader or designee shall develop a written narrative comprehensive assessment based on all information found in the assessments in 450:55-5-5.
- (d) Compliance with 450:55-5-5 shall be determined by on-site observation and a review of the clinical records, ICIS information and the PACT policy and procedures.

450:55-5-6. Treatment team meeting

- (a) Prior to writing the comprehensive treatment plan, led by the team leader, the team shall meet to develop the comprehensive treatment plan by discussing and documenting:
 - (1) The specifics of all information learned from the comprehensive assessments;
 - (2) Resources to carry out the treatment plan;
 - (3) Roles of the individual PACT members to carry out the plan; and
 - (4) Recommendations made to the treatment plan from the consumer, family members and PACT staff.
- (b) Treatment planning meetings shall be scheduled in advance of the meeting and the schedule shall be posted. A summary of the treatment planning meeting shall be documented in the consumer's clinical record. At each treatment planning meeting the following staff shall attend: team leader, psychiatrist, primary case manager, individual treatment team members, and all other PACT team members involved in regular tasks with the consumer.
- (c) Compliance with 450:55-5-6 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-5-7. Treatment planning

- (a) The PACT team shall conduct treatment planning meetings under the supervision of the team leader and the psychiatrist. These treatment planning meetings shall minimally:
 - (1) Convene at regularly scheduled times per a written schedule maintained by the team leader; and
 - (2) Occur with sufficient frequency and duration to develop written individual consumer treatment plans and to review and rewrite the plans every six months.
- (b) The PACT team shall evaluate each consumer's needs, strengths, abilities and preferences and develop an individualized comprehensive treatment plan within eight (8) weeks of admission, which shall identify individual needs and problems and specific measurable long- and short-term goals along with the specific services and activities necessary for the consumer to meet those goals and improve his or her capacity to function in the community. The treatment plan shall be developed in collaboration with the consumer or guardian, if any, and when feasible and the consumer authorizes, the consumer's family. The consumer's participation in the development of the treatment plan shall be documented.
- (c) Individual treatment team members shall ensure the consumer is actively involved in the development of treatment and service goals. With a valid written authorization of the consumer, PACT team staff shall also involve pertinent agencies

and members of the consumer's social network in the formulation of treatment plans.

(1) The treatment plan shall clearly specify the services and activities necessary to meet the consumer's needs and who will be providing those services and activities.

(2) The following key areas shall be addressed in every consumer's treatment plan: symptom stability, symptom management, substance abuse, education, housing, activities of daily living, employment and daily structure, and family and social relationships.

(3) The primary case manager and the individual treatment team shall be responsible for reviewing and revising the treatment goals and plan whenever there is a major decision point in the consumer's course of treatment, e.g., significant change in consumer's condition, etc., or at least every six (6) months. The revised treatment plan shall be based on the results of a treatment planning meeting. Additionally, the primary case manager shall prepare a summary, i.e., treatment plan review, describing the consumer's progress since the last treatment planning meeting and outlining the consumer's current functional strengths and limitations. The plan and review will be signed by the consumer, the primary case manager, individual treatment team members, the team leader, the psychiatrist, and all PACT team members.

(d) The PACT team shall maintain written assessment and treatment planning policies and procedures to assure that appropriate, comprehensive, and on-going assessment and treatment planning occur.

(e) Compliance with 450:55-5-7 shall be determined by review of the clinical records.

450:55-5-8. Discharge

(a) Documentation of consumer discharge shall be completed within 15 days of discharge and shall include all of the following elements:

(1) The reasons for discharge;

(2) The consumer's status and condition at discharge;

(3) A written final evaluation summary of the consumer's progress toward the treatment plan goals;

(4) A plan developed in conjunction with the consumer for treatment after discharge and for follow-up;

(5) Referral and transfer, preferably to another PACT team if available or to other mental health services; and

(6) The signature of the PACT consumer, if available, the consumer's primary PACT case manager, team leader, and psychiatrist.

(b) A signed release of information for follow-up shall be obtained before any contact after discharge can be made.

(c) Compliance with 450:55-5-8 shall be determined by review of the clinical records.

450:55-5-9. PACT progress note

(a) The PACT shall have a policy and procedure mandating the chronological documentation of progress notes.

(b) Progress notes shall minimally address the following:

(1) Person(s) to whom services were rendered;

(2) Date and time-frame of the service provided;

(3) Activities and services provided and as they relate to the goals and objectives of the treatment plan;

(4) Detailed description of the contact/service;

(5) The consumer's response to intervention services, changes in behavior and mood and outcome of intervention services;

(6) Plans for continuing therapy or for discharge, whichever is appropriate;

(7) The location for each service provided will be documented in every progress note; and

(8) Clinician's signature with credentials.

(c) Compliance with 450:55-5-9 shall be determined by a review of clinical records.

450:55-5-10. Medication record

(a) The PACT shall maintain a medication record on all consumers who receive medications or prescriptions in order to provide a concise and accurate record of the medications the consumer is receiving or having prescribed.

(b) The consumer record shall contain a medication record with information on all medications ordered or prescribed by physician staff which shall include, but not be limited to:

(1) Name of medication;

(2) Dosage;

(3) Frequency of administration or prescribed change;

(4) Route of administration;

(5) Staff member who administered or dispensed each dose, or prescribing physician; and

(6) A record of pertinent information regarding adverse reactions to drugs, drug allergies, or sensitivities shall be updated when required by virtue of new information, and kept in a highly visible location in or on the record.

(c) Compliance with 450:55-5-10 shall be determined by a review of medication records in clinical records and a review of clinical records.

450:55-5-11. Other records content

(a) The consumer record shall contain copies of all consultation reports concerning the consumer.

(b) When psychometric or psychological testing is done, the consumer record shall contain a copy of a written report describing the test results and implications and recommendations for treatment.

(c) The consumer record shall contain any additional information relating to the consumer, which has been secured from sources outside the PACT program.

(d) Before any person can be admitted for treatment on a voluntary basis, a signed consent for treatment shall be obtained.

(e) Compliance with 450:55-5-11 shall be determined by a review of clinical records.

SUBCHAPTER 7. CONFIDENTIALITY

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450:55-7-1. Confidentiality, mental health consumer information and records

(a) All mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential. In addition, the identity of all consumers who have received or are receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged. Such information shall only be available to persons or agencies actively engaged in the treatment of the consumer unless a state or federal law exception applies.

(b) All facilities shall have policy and procedures protecting the confidential and privileged nature of mental health and drug or alcohol abuse treatment information in compliance with state and federal law and which contain at a minimum:

(1) an acknowledgment that all mental health and drug or alcohol abuse treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(2) an acknowledgment that the identity of a consumer who has received or is receiving mental health or drug or alcohol abuse treatment services is both confidential and privileged and will not be released without the written consent of the consumer or the consumer's legally authorized representative;

(3) a procedure to limit access to mental health and drug or alcohol abuse treatment information to only those persons or agencies actively engaged in the treatment of the patient and to the minimum amount of information necessary to carry out the purpose for the release;

(4) a procedure by which a consumer, or the consumer's legally authorized representative, may access the consumer's mental health and drug or alcohol abuse treatment information;

(5) an acknowledgement that certain state and federal law exceptions to disclosure of mental health and drug or alcohol abuse treatment information without the written consent of the consumer or the consumer's legally authorized representative exist and the facility will release information as required by those laws; and

(6) a procedure by which to notify a consumer of his or her right to confidentiality.

(c) A facility disclosing information pursuant to a written consent to release information shall ensure the written consent form complies with all applicable state and federal law and contains at a minimum the following:

(1) the name of the person or program permitted to make the disclosure;

(2) the name or title of the person or the name of the organization to which disclosure is to be made;

(3) the name of the consumer whose records are to be released;

(4) a description of the information to be disclosed;

(5) the specific reason for the disclosure;

(6) the signature of the consumer or the consumer's legally authorized representative;

(7) the date the consent to release was signed by the consumer or the consumer's legally authorized representative;

(8) an expiration date, event or condition which shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given;

(9) a statement of the right of the consumer, or the consumer's legally authorized representative, to revoke the consent to release in writing and a description of how the patient may do so;

(10) a confidentiality notice which complies with state and federal law; and

(11) a statement in bold face writing that "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but is not limited to, diseases such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)."

(d) Compliance with 450:55-7-1 shall be determined by a review of facility policy and procedures, facility forms, consumer record reviews, interviews with staff and consumers and any other supporting facility documentation.

SUBCHAPTER 9. CONSUMER RIGHTS

450:55-9-1. Consumer rights, outpatient services

(a) All consumers receiving outpatient services shall have and enjoy all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. For purposes of this section, outpatient services includes all services where the consumer does not reside in, or stay overnight in, the facility providing services to him or her. Each facility either operated by, or certified by, or under contract with ODMHSAS providing outpatient mental health or substance abuse services shall insure consumers have the rights specified as follows.

(1) All consumers have the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity.

(2) Each consumer has the right to receive services in a safe, sanitary, and humane living environment.

(3) Each consumer has the right to receive services in a humane psychological environment protecting them from harm, abuse, and neglect.

(4) Each consumer has the right to receive services in an environment which provides privacy, promotes personal dignity, and provides opportunity for the consumer to improve his or her functioning.

(5) Each consumer has the right to receive services without regard to his or her race, religion, sex, ethnic origin, age, handicapping condition, legal status, or ability to pay for the services.

- (6) Each consumer shall have the right to be protected from neglect or sexual, physical, verbal or other abuse.
- (7) Each consumer has the right to be provided with prompt, competent, appropriate treatment services and an individualized treatment plan.
 - (A) The consumer shall be afforded the opportunity to participate in his or her treatment and treatment planning; and may consent, or refuse to consent, to the proposed treatment.
 - (B) The consumer's right to consent, or refuse to consent, may be abridged for those consumers adjudged incapacitated by a court of competent jurisdiction, and in emergency situations defined by law.
 - (C) When the consumer authorizes the consumer's family or significant others shall be involved in the treatment and treatment planning.
- (8) The records of each consumer shall be treated in a confidential manner.
- (9) Each consumer has the right to refuse to participate in any research project or medical experiment without informed consent of the consumer, as defined by law. A refusal to participate shall not affect the services available to the consumer.
- (10) A consumer may voluntarily participate in work therapy, and shall be paid just compensation for such work.
- (11) Each consumer has the right to request the opinion of an outside medical or psychiatric consultant, at the expense of the consumer; or the right to an internal facility consultation, at no cost to the consumer.
- (12) Each consumer has the right to assert grievances with respect to any alleged infringement of these stated rights of consumers, or any other subsequently statutorily granted rights.
- (13) No consumer shall ever be retaliated against, or subject to, any adverse conditions or treatment services solely or partially because of having asserted his or her rights as afore stated in this section.

(b) Each PACT shall have written policy and implementing procedures, and shall provide documented staff training to insure the implementation of each and every consumer right stated in this section.

(c) Each PACT shall have written policy and implementing procedures to insure each consumer enjoys and has explained to him or her these rights and these rights are visibly posted in both consumer and public areas of the facility.

(d) Compliance with 450:55-9-1 shall be determined by a review of facility policy and procedures, posted notices of consumer rights (outpatient services), interviews with staff and consumers, review of grievances by consumers or others and any other supporting facility documentation.

450:55-9-2. Consumers' grievance policy

(a) Each PACT program shall have a written grievance policy and procedure for consumers, which shall include but not be limited to the following:

- (1) Written notice of the procedure provided to the consumer and, if involved with the consumer, to family members or significant others;
 - (2) Written notice of the right to make a complaint with the ODMHSAS Office of Consumer Advocacy;
 - (3) Time frames which allow for expedient resolution of the grievance within a maximum of five (5) working days;
 - (4) Name(s) of the individual(s) who are responsible for coordinating the grievance policy and the individual responsible for or authorized to make decisions for resolution of the grievance. In the instance where the decision maker is the subject of a grievance, decision making authority shall be delegated;
 - (5) Procedure by which a notice is provided to the consumer advising that he or she has a right to make a complaint to the ODMHSAS Office of Consumer Advocacy;
 - (6) Mechanism to monitor the grievance process and improve performance based on outcomes; and
 - (7) Annual review of the grievance policy and its implementing procedures with revisions as needed to improve.
- (b) Compliance with 450:55-9-2 shall be determined by:
- (1) A review of the PACT's grievance policy and implementing procedures;
 - (2) Posted notices of consumer rights;
 - (3) Interviews with staff and consumers;
 - (4) Review of the PACT's records of grievances filed by consumers or family and significant others; and
 - (5) Any other supporting PACT documentation.

450:55-9-3. ODMHSAS Office of Consumer Advocacy

The ODMHSAS Office of Consumer Advocacy, in any investigation regarding consumer rights shall have access to consumers, PACT Program records and PACT staff as set forth in Oklahoma Administrative Code Title 450, Chapter 15.

SUBCHAPTER 11. ORGANIZATIONAL MANAGEMENT

450:55-11-1. Organizational description

(a) The PACT's governing authority responsible for the agency under which the PACT program operates shall approve the mission statement and annual goals and objectives and document their approval.

(b) The PACT program shall have a written organizational description which is reviewed annually and minimally includes:

- (1) The overall target population for whom services will be provided;
- (2) The specific geographic area in which PACT services are to be provided;
- (3) The overall mission statement; and
- (4) The PACT program's annual goals and objectives;

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(c) There shall be documentation verifying these documents are available to the general public upon request.

(d) Compliance with 450:55-11-1 shall be determined by on-site observation and a review of the following: clinical records and the PACT policy and procedures.

450:55-11-2. Program organization

(a) The agency under which the PACT operates shall vest authority with a team leader who shall be responsible for ensuring the PACT team meets the following organizational requirements.

(b) Each PACT shall have a written plan for professional services, which shall contain the following:

- (1) Services description and philosophy;
- (2) The identification of the professional staff organization to provide these services;
- (3) Written admission and exclusionary criteria to identify the type of consumers for whom the services are primarily intended; and
- (4) Written goals and objectives.

(c) There shall be a written statement of the procedures and plans for attaining the organization's goals and objectives. These procedures and plans should define specific tasks, set target dates and designate staff responsible for carrying out the procedures/plans.

(d) Compliance with 450:55-11-2 shall be determined by a review of the following: PACT target population definition, PACT policy and procedures, mission statement, written plan for professional services, other stated required documentation and any other supporting documentation

450:55-11-3. Information analysis and planning

(a) The PACT shall have a plan for conducting an organizational needs assessment which specifies the methods and data to be collected, including but not limited to information from:

- (1) Consumers.
- (2) Governing Authority.
- (3) Staff.
- (4) Stakeholders.
- (5) Outcomes management processes, and
- (6) Quality record review.

(b) The PACT shall have a defined system to collect data and information on a quarterly basis to manage the organization.

(c) Information collected shall be analyzed to improve consumer services and organizational performance.

(d) The PACT shall prepare an end of year management report, which shall include, but not be limited to:

- (1) An analysis of the needs assessment process; and
- (2) Performance improvement program findings.

(e) The management report shall be communicated and made available to, among others:

- (1) The governing authority,
- (2) PACT staff, and
- (3) ODMHSAS, as requested.

(f) The PACT shall assure that a local advisory committee is established, with input of local advocates and other stakeholders.

(1) The committee shall be constituted of representative stakeholders including at least 51% consumers and family members. The remaining members shall be advocates, other professionals and community leaders.

(2) The team leader shall convene the advisory committee and work with the committee to establish a structure for meetings and committee procedures.

(3) The primary role of the advisory committee is to assist with implementation, policy development, advocate for program needs, and monitor outcomes of the program.

(4) The Advisory Committee shall meet at least once each quarter.

(5) Written minutes of committee meetings shall be maintained.

(g) Compliance with 450:55-11-3 shall be determined by a review of the written program evaluation plan(s), written annual program evaluation(s), special or interim program evaluations, program goals and objectives and other supporting documentation provided.

SUBCHAPTER 13. PERFORMANCE IMPROVEMENT AND QUALITY MANAGEMENT

450:55-13-1. Performance improvement program

(a) There shall be an ongoing performance improvement program designed to objectively and systematically monitor, evaluate and improve the quality of consumer care.

(b) The Performance improvement program shall also address the fiscal management of the organization.

(c) There shall be an annual written plan for performance improvement activities. The plan shall include but not be limited to:

(1) Outcomes management processes specific to each program component minimally measuring:

- (A) Efficiency;
- (B) Effectiveness; and
- (C) Consumer satisfaction.

(2) A quarterly record review to minimally assess:

- (A) Quality of services delivered;
- (B) Appropriateness of services;
- (C) Patterns of service utilization; and
- (D) Consumers, relevant to their orientation to the PACT and services being provided;
- (E) The thoroughness, timeliness and completeness of the assessment;
- (F) Treatment goals and objectives are based on assessment findings and consumer input;
- (G) Services provided were related to the goals and objectives;
- (H) Services are documented as prescribed by policy;
- (I) The treatment plan is reviewed and updated as prescribed by policy;

(3) Clinical privileging;

(4) Fiscal management and planning shall include:

- (A) An annual budget that is approved by the governing authority and reviewed at least annually;

- (B) The organization's capacity to generate needed revenue to produce desired consumer and other outcomes; and
- (C) Monitoring of consumer records to ensure among others, documented dates of services provided coincide with billed service encounters; and,
- (5) Review of critical incident reports and consumer grievances or complaints.
- (d) The PACT shall monitor the implementation of the performance improvement plan on an ongoing basis and makes adjustments as needed.
- (e) Performance improvement findings shall be communicated and made available to, among others:
 - (1) The governing authority;
 - (2) PACT staff; and
 - (3) ODMHSAS if and when requested.
- (f) Compliance with 450:55-13-1 shall be determined by a review of the written program evaluation plan, written program evaluations annual, special or interim, program goals and objectives and other supporting documentation provided.

450:55-13-2. Incident reporting

- (a) There shall be written policies and procedures requiring documentation and reporting of critical incidents.
- (b) The documentation for critical incidents shall contain, minimally:
 - (1) the facility name and name and signature of person(s) reporting the incident;
 - (2) the name of consumer(s), staff person(s), or others involved in the incident;
 - (3) the time, place and date the incident occurred;
 - (4) the time and date the incident was reported and name of the person to whom it was reported;
 - (5) description of the incident;
 - (6) the severity of each injury, if applicable. Severity shall be indicated as follows:
 - (A) No off-site medical care required or first aid care administered on-site;
 - (B) Medical care by a physician or nurse or follow-up attention required; or
 - (C) Hospitalization or immediate off-site medical attention was required;
 - (7) Resolution or action taken, date action taken, and signature of PACT program director.
- (c) The PACT program shall report all critical incidents to ODMHSAS.
 - (1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.
 - (2) Critical incidents involving allegations constituting a sentinel event or resident abuse shall be reported to ODMHSAS immediately via telephone or fax, but not less than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

- (d) Compliance with 450:55-13-2 shall be determined by a review of policy and procedures, critical incident reports at the PACT and those submitted to ODMHSAS.

SUBCHAPTER 15. PERSONNEL

450:55-15-1. Personnel policies and procedures

- (a) The PACT shall have written personnel policies and procedures approved by the governing authority.
- (b) All employees shall have access to personnel policies and procedures, as well as other rules and regulations governing the conditions of their employment.
- (c) The PACT shall develop, adopt and maintain policies and procedures to promote the objectives of the program and provide for qualified personnel during all hours of operation to support the functions of the center and provide quality care.
- (d) Compliance with 450:55-15-1 shall be determined by a review of written personnel policies and procedures and other supporting documentation provided.

450:55-15-2. Job descriptions

- (a) The PACT shall have written job descriptions for all positions setting forth minimum qualifications and duties of each position.
- (b) Compliance with 450:55-15-2 shall be determined by a review of written job descriptions for all center positions and other supporting documentation provided.

SUBCHAPTER 17. STAFF DEVELOPMENT AND TRAINING

450:55-17-1. Orientation and training

- (a) Each PACT shall develop and implement an orientation and training program that all new staff shall complete prior to providing services. The orientation shall minimally include a review of the following:
 - (1) Oklahoma Administrative Code, Title 450, Chapter 15, Consumer Rights, Chapter 55, Program for Assertive Community Treatment, Subchapter 7, Confidentiality, Subchapter 9, Consumer Records and any other parts of Title 450 deemed appropriate;
 - (2) PACT policies; and
 - (3) Job responsibilities specified in job description
- (b) Compliance with 450:55-17-1 shall be determined by a review of personnel files, clinical privileging records and other supporting documentation provided.

450:55-17-2. Staff development

- (a) The PACT shall have a written plan for the professional growth and development of all administrative, professional clinical and support staff.
- (b) This plan shall include but not be limited to:
 - (1) Orientation procedures;
 - (2) In-service training and education programs;

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- (3) Availability of professional reference materials; and
- (4) Mechanisms for insuring outside continuing educational opportunities for staff members.
- (c) The results of performance improvement activities and accrediting and audit findings and recommendations shall be addressed by and documented in the staff development and clinical privileging processes.
- (d) Staff education and in-service training programs shall be evaluated at least annually by the agency.
- (e) Compliance with 450:55-17-2 shall be determined by a review of the staff development plan, clinical privileging processes, documentation of inservice training programs and other supporting documentation provided.

450:55-17-3. In-service

- (a) In-service presentations shall be conducted yearly and shall be required for all employees on the following topics:
 - (1) Fire and safety;
 - (2) Infection Control and universal precautions;
 - (3) Creating A Positive Environment (CAPE) training or similar programs;
 - (4) Consumer's rights and the constraints of the Mental Health Consumer's Bill of Rights;
 - (5) Confidentiality;
 - (6) Oklahoma Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101 et seq. and Protective Services for the Elderly and for Incapacitated Adults Act, 43A O.S. §§ 10-101 et seq;
 - (7) Facility policy and procedures; and
 - (8) Cultural diversity.
- (b) Staff providing clinical services shall have a current cardiopulmonary resuscitation certification.
- (c) Compliance with 450:55-17-3 shall be determined by a review of in-service training records, personnel records and other supporting written information provided.

SUBCHAPTER 19. FACILITY ENVIRONMENT

450:55-19-1. Facility environment

- (a) The PACT shall meet inspection, safety and building code regulations required by local, state and federal authorities and laws.
- (b) PACT staff shall know the exact location, contents and use of first aid supply kits and fire fighting equipment and fire detection systems. All fire fighting equipment shall be annually maintained in appropriately designated areas within the facility.
- (c) The PACT shall post written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather.
- (d) Facility grounds shall be maintained in a manner which provides a safe environment for consumers, personnel, and visitors.
- (e) The PACT's director or designee, shall appoint a safety officer.

- (f) The PACT shall have an emergency preparedness program designed to provide for the effective utilization of available resources so consumer care can be continued during a disaster. The PACT shall evaluate the emergency preparedness program annually and update as needed.
- (g) Policies for the use and control of personal electrical equipment shall be developed and implemented.
- (h) The PACT's Director shall ensure there is a written plan to respond to internal and external disasters. External disasters include, but are not limited to, tornadoes, explosions, and chemical spills.
- (i) All PACT shall be inspected annually by designated fire and safety officials of the municipality who exercise fire/safety jurisdiction in the facility's location.
- (j) The PACT shall have a written Infection Control Program and staff shall be knowledgeable of Center for Disease Control (CDC) Guidelines for Tuberculosis and of the Blood Borne Pathogens Standard, location of spill kits, masks and other personal protective equipment.
- (k) The PACT program shall have a written Hazardous Communication Program and staff shall be knowledgeable of chemicals in the workplace, location of Material Safety Data Sheets, personal protective equipment; and toxic or flammable substances shall be stored in approved locked storage cabinets.
- (l) Compliance with 450:55-19-1 shall be determined by visual observation, posted evacuation plans and a review of policy and procedures, regulatory or internal inspection reports, training documentation and other supporting documentation provided.

450:55-19-2. Medication storage

- (a) Medication administration, storage and control, and consumer reactions shall be continually monitored.
- (b) PACT Programs shall assure proper storage and control of medications, immediate response if incorrect or overdoses occur, and have appropriate emergency supplies available if needed.
- (c) Written procedures for medication administration shall be available and accessible in all medication storage areas, and available to all staff authorized to administer medications.
- (d) All medications shall be kept in locked, non-consumer accessible areas. Conditions which shall be considered in medication storage are light, moisture, sanitation, temperature, ventilation, and the segregation and safe storage of poisons, external medications, and internal medications.
- (e) Telephone numbers of the state poison centers shall be immediately available in all locations where medications are prescribed, or administered, or stored.
- (f) A PACT program physician shall supervise the preparation and stock of an emergency kit which shall be readily available, but accessible only to PACT program staff.
- (g) Compliance with 450:55-19-2 shall be determined by on-site observation and a review of written policy and procedures, clinical records and PI records.

SUBCHAPTER 21. GOVERNING AUTHORITY

450:55-21-1. Documents of authority

- (a) There shall be a duly constituted authority and governance structure for assuring legal responsibility and for requiring accountability for performance and operation of the PACT.
- (b) The governing authority shall have written documents of its source of authority, which shall be available to the public upon request.
- (c) The governing body's bylaws, rules or regulations shall identify the chief executive officer who is responsible for the structure under which the PACT is organized the control, utilization and conservation of its physical and financial assets and the recruitment and direction of the staff.
- (d) The source of authority document shall state:
 - (1) The eligibility criteria for governing body membership;
 - (2) The number and types of membership;
 - (3) The method of selecting members;
 - (4) The number of members necessary for a quorum;
 - (5) Attendance requirements for governing body membership;
 - (6) The duration of appointment or election for governing body members and officers; and
 - (7) The powers and duties of the governing body and its officers and committees or the authority and responsibilities of any person legally designated to function as the governing body.
- (e) There shall be an organizational chart setting forth the structure of the organization.
- (f) Compliance with 450:23-11-1 shall be determined by a review of the following: bylaws, articles of incorporation, written document of source of authority, minutes of governing board meetings, job description of the CEO and the written organizational chart.

SUBCHAPTER 23. SPECIAL POPULATIONS

450:55-23-1. Americans with Disabilities Act of 1990

- (a) Under Titles 11 and 111 of the ADA, the PACT shall comply with the "Accessibility Guidelines for Buildings and Facilities (ADAAG) for alterations and new construction." United States government facilities are exempt for the ADA as they shall comply with the "Uniform Federal Accessibility Standards (UFAS)", effective August 7, 1984. Also available for use in assuring quality design and accessibility is

the American National Standards Institute (ANSI) A117.1 "American National Standard for Accessible and Usable Buildings and Facilities."

- (b) State and local standards for accessibility and usability may be more stringent than ADA, UFAs, or ANSI A 117.1. The PACT shall assume responsibility for verification of all applicable requirements and comply with the most stringent standards.

(c) The PACT facility shall have written policy and procedures providing or arranging for services for persons who fall under the protection of the Americans With Disabilities Act of 1990 and provide documentation of compliance with applicable Federal, state, and local requirements. A recommended reference is the "Americans with Disabilities Handbook" published the in U.S. Equal Employment Opportunities Commission and the U.S. Department of Justice.

- (d) Compliance with 450:55-23-1 shall be determined through a review of facility written policy and procedure and any other supporting documentation.

450:55-23-2. Human Immunodeficiency Virus (HIV), and Acquired Immunodeficiency Syndrome (AIDS)

- (a) A policy of non-discrimination against persons with HIV infection or AIDS shall be adopted and in force in the policy and procedure of the PACT.

(b) All PACT shall observe the Universal Precautions For Transmission of Infectious Diseases as set forth in "Occupational Exposure to Blood Borne Pathogens" published by the United States Occupations Safety Health Administration (OSHA).

- (1) There shall be written documentation the aforestated Universal Precautions are the policy of the PACT; and

(2) In-service regarding the Universal Precautions shall be a part of employee orientation and/at least once per year, is included in employee in-service training.

- (c) Compliance with 450:55-23-2 is determined by review of PACT policy and procedure and in-service records, on-site observation, schedules and other documentation.

*[OAR Docket #03-360; filed 3-5-03]
(format accepted 3-7-03)*

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

1:2003-4.

EXECUTIVE ORDER 2003-04

I, Brad Henry, Governor of the State of Oklahoma, hereby create the Cabinet System pursuant to the authority vested in me by the Executive Branch Reform Act of 1986. Pursuant to Section 10.3 of Title 74 of the Oklahoma Statutes, it is hereby ordered:

The Cabinet shall be comprised of the following Secretaries:

1. Secretary of Agriculture;
2. Secretary of Commerce and Tourism;
3. Secretary of Education;
4. Secretary of Energy;
5. Secretary of the Environment;
6. Secretary of Finance and Revenue;
7. Secretary of Health;
8. Secretary of Human Resources and Administration;
9. Secretary of Human Services;
10. Secretary of the Military;
11. Secretary of Safety and Security;
12. Secretary of Science and Technology;
13. Secretary of State;
14. Secretary of Transportation; and
15. Secretary of Veterans Affairs.

The **Secretary of Agriculture** shall be responsible for the following executive entities or their successors:

State Board of Agriculture and Department of Agriculture,
Food & Forestry
All Commodity Commissions & entities (Peanut, Pecan Marketing Board, Sheep & Wool, Sorghum & Wheat)
Conservation Commission
Advisors on Oklahoma Feed Yards Act
South Central Interstate Forest Fire Protection Compact and Advisory Committee
State Board of Registration for Foresters
Bureau of Standards
Boll Weevil Eradication Organization

The **Secretary of Commerce and Tourism** shall be responsible for the following executive entities or their successors:

Black Advisory Task Force

Oklahoma Capital Investment Board
Department of Commerce
East Central Oklahoma Building Authority
Oklahoma Firemen's Building Authority
Oklahoma Development Finance Authority
Oklahoma Housing Finance Authority
Oklahoma Industrial Finance Authority
Kiamichi Development Authority
Labor Commissioner and Department of Labor
Mid-South Industrial Authority
Midwestern Oklahoma Development Authority
Office for Minority and Disadvantaged Business Enterprises
Oklahoma Municipal Power Authority Board
Northeast Oklahoma Public Facilities Authority
Oklahoma Ordnance Works Authority
Small Business Regulatory Review Committee
Southeastern Oklahoma Industries Authority
Southern Growth Policies Board
Southern Oklahoma Development Trust
All Sub-State Planning Districts
Workforce Investment Board
Governor's Commission for Oklahoma Artisans
Oklahoma Capitol Complex and Centennial Commemoration Commission
J.M. Davis Memorial Commission
Oklahoma Film & Music Advisory Commission
Will Rogers Memorial Commission
State Geographer
Oklahoma Historic Preservation Review Committee
Historical Records Advisory Board
Oklahoma Historical Society and Oklahoma Memorial Committee
Oklahoma Jazz Hall of Fame
Native American Cultural and Educational Authority
State Register of Natural Heritage Areas
Oklahoma Sam Noble Museum of Natural History
Scenic Rivers Commission
Department of Tourism and Recreation and Tourism and Recreation Commission
Oklahoma Tourism Promotion Advisory Committee

The **Secretary of Education** shall be responsible for the following executive entities or their successors:

State Accrediting Agency
Anatomical Board of the State of Oklahoma
Archives and Records Commission
State Arts Council

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Common Schools Capital Improvement Needs Assessment Committee
Commission on County Government Personnel Education and Training
State Board of Education, Superintendent of Public Instruction and State Department of Education
Education Commission of the States
Education Oversight Board
Educational Professional Standards Board
Oklahoma Educational Television Authority
Board of Trustees for Enid Higher Education Program
Department of Libraries
Minority Teacher Recruitment Advisory Committee
Advisory Committee to the Municipal Clerks and Treasurers Division
Post-Secondary Oversight Council
Oklahoma Board of Private Vocational Schools
Oklahoma State Regents for Higher Education
All College and University Boards of Regents or Trustees
Commission on School and County Funds Management
Board of Trustees of the Oklahoma School of Science and Mathematics
Southern Regional Educational Compact and Board of Control for Southern Regional Education
Student Loan Authority
Oklahoma Commission for Teacher Preparation
State Textbook Committee
State Council on Vocational Education
State Board of Career and Technology Education and Department of Career and Technology Education

The **Secretary of Energy** shall be responsible for the following executive entities or their successors:

Corporation Commission
East Central Gas Authority
Oklahoma Energy Resources Board
Grand River Dam Authority and GRDA Board of Directors Nominating Committee
Interstate Oil and Gas Compact Commission
Liquefied Petroleum Gas Board
LPG Research, Marketing & Safety Commission
Commission on Marginally Producing Oil and Gas Wells
Department of Mines and Oklahoma Mining Commission
Interstate Mining Commission
Miner Training Institute
North Central Oklahoma Municipal Power Pool Authority
Southern States Energy Compact and Southern States Energy Board

The **Secretary of the Environment** shall be responsible for the following executive entities or their successors:

Air Quality Council
Arkansas-Oklahoma Arkansas River Compact Commission
Arkansas River Basin Interstate Committee
Arkansas-White-Red River Basins Interagency Commission
Bioenergy Initiative, Oklahoma

Canadian River Commission
Central Interstate Low-Level Radioactive Waste Compact Commission
Compliance Advisory Panel
Environmental Finance Authority
Environmental Quality Board and Department of Environmental Quality
Hazardous Waste Management Advisory Council
High Plains Study Council and Task Force
Illinois River Task Force
Kansas-Oklahoma Arkansas River Compact Commission
Laboratory Services Advisory Council
Lone Chimney Water Association
Ottawa Reclamation Authority
Radiation Advisory Committee
Red River Compact Commission
Solid Waste Management Advisory Council
Water Law Advisory Committee
Water Quality Management Advisory Council
Oklahoma Water Research Institute
Oklahoma Water Resources Board
Governor's Water Resources Research Coordinating Committee
Wildlife Conservation Commission and Department of Wildlife Conservation

The **Secretary of Finance and Revenue** shall be responsible for the following executive entities or their successors:

State Banking Board and State Banking Department
State Bond Advisor
State Auditor & Inspector
Council of Bond Oversight Commission
Building Bonds Commission
Long-Range Capital Planning Commission
Oklahoma Capitol Improvement Authority
Board of Trustees of the Oklahoma College Savings Plan
Department of Consumer Credit and Consumer Credit Commission
Contingency Review Board
Oklahoma State Credit Union Board
State Board of Equalization
Office of State Finance
Firefighters Pension & Retirement Board
Industry Advisory Committee
Insurance Commissioner and State Insurance Department
Board of Managers of CompSource Oklahoma and CompSource Oklahoma
Oklahoma Life and Health Insurance Guaranty Association and Board of Directors
Oklahoma Property and Casualty Insurance Guaranty Association and Board of Directors
State Board for Property and Casualty Rates
Advisory Committee on Intergovernmental Relations
Commissioners of the Land Office
Advisory Task Force on Sale of School Lands
Linked Deposit Review Board
Law Enforcement Retirement Board

Board on Legislative Compensation
Multiple Injury Trust Fund
Oklahoma Pension Commission
Police Pension and Retirement Board
Oklahoma Public Employees Retirement Board
Oklahoma Securities Commission and Department of Securities
Agency Special Account Board
Oklahoma Tax Commission
Tobacco Settlement Endowment Trust Fund Board of Investors
State Treasurer
Board of Trustees of the Teachers' Retirement System and Teachers' Retirement System

The **Secretary of Health** shall be responsible for the following executive entities or their successors:

Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority
Alcohol, Drug Abuse and Community Mental Health Planning and Coordination Boards
Agent Orange Outreach Committee
Advisory Council on Alcohol and Drug Abuse
Alarm Industry Committee
Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education Advisory Council
Alzheimer's Research Advisory Council
Barber Advisory Board
Boxing Advisory Committee
Child Abuse Prevention Training and Coordination Council
Community Hospitals Authority
Construction Industries Board
Licensed Professional Counselors Advisory Board
Domestic Violence and Sexual Assault Advisory Committee
Committee of Electrical Examiners
Electrical Hearing Board
Emergency Response Systems Development Advisory Council
Oklahoma Licensed Marital and Family Therapist Committee
Oklahoma Health Care Authority
Health Care Information Advisory Committee
State Board of Health and Department of Health
Health Care Study Commission
Healthy Futures Steering Committee
Hearing Aid Advisory Council
Home Health Advisory Board
Hospice Advisory Board
Oklahoma Inspector Examiners Committee
Committee of Mechanical Examiners and Mechanical Hearing Board
Advisory Committee on Medical Care for Public Assistance Recipients
Department of Mental Health and Substance Abuse
Interstate Compact on Mental Health
Mental Health Advisory Committee on Deafness and Hearing Impairment
Interagency Council for Services to Mentally Ill Homeless Persons

Oklahoma State Board of Examiners for Nursing Home Administrators
Plumbing Hearing Board and State Committee of Plumbing Examiners
Long-Term Care Facility Advisory Board
Medical Direction Subcommittee
Radiation Advisory Committee
Residence and Family State Council
Sanitarian & Environmental Specialist Registration Advisory Council
Tobacco Settlement Endowment Trust Fund Board of Directors
Advisory Council on Traumatic Spinal Cord and Traumatic Brain Injury

The **Secretary for Human Resources and Administration** shall be responsible for the following executive entities or their successors:

Accountancy Board
Alternative Fuels Technician Examiners Hearing Board
Board of Governors of Licensed Architects & Landscape Architects
Athletic Trainers Advisory Committee
Capitol-Medical Center Improvement and Zoning Commission and Citizens Advisory Committee
State Capitol Preservation Commission
Department of Central Services
Board of Chiropractic Examiners
State Board of Cosmetology
Board of Dentistry
Advisory Committee on Dietetic Registration
Advisory Committee of Registered Electrologists
Oklahoma State Board of Embalmers and Funeral Directors
Oklahoma State Employees Benefits Council
State Board of Registration for Professional Engineers and Land Surveyors
Oklahoma Horse Racing Commission
Board of Medical Licensure and Supervision
Oklahoma Motor Vehicle Commission
Oklahoma Used Motor Vehicle & Parts Commission
Board of Nursing and Advisory Council
Advanced Practice Nurse Formulary Advisory Council
Certified Registered Nurse Anesthetist Formulary Advisory Council
Occupational Therapy Advisory Committee
Board of Examiners in Optometry
State Board of Osteopathic Examiners
Board of Examiners of Perfusionists
Board of Pharmacy
Physical Therapy Committee
Physician's Assistant Advisory Committee
Board of Podiatric Medical Examiners
Board of Examiners of Psychologists
Public Employees Relations Board
Oklahoma Real Estate Commission
Real Estate Appraiser Board
Respiratory Care Advisory Committee
Sanitarian Registration Advisory Council

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Savings & Loan Advisory Council
State Board of Licensed Social Workers
Board of Examiners for Speech Pathology and Audiology
State Use Committee
Board of Veterinary Medical Examiners
Affirmative Action Review Committee
Governor's Advisory Council on Asian-American Affairs
Oklahoma Employment Security Commission and State Advisory Council and Board of Review
Oklahoma State and Education Employees Group Insurance Board and Advisory Committee
Human Rights Commission
Committee for Incentive Awards for State Employees
State Job Training Coordinating Council
Governor's Advisory Council on Latin American and Hispanic Affairs
Martin Luther King Jr. Holiday Commission
Mentor Selection Advisory Commission
Merit Protection Commission
Office of Personnel Management
Certified Public Manager Advisory Board
State Agency Review Committee
State Employee Child Daycare Advisory Committee
Human Resources Management Advisory Committee
Oklahoma Commission on the Status of Women

The **Secretary of Human Services** shall be responsible for the following executive entities or their successors:

Governor's Advisory Committee on Aging
Black Advisory Task Force
Committee of Blind Vendors
Board of Directors for Canteen Services
Cerebral Palsy Commission and J.D. McCarty Center for Children with Developmental Disabilities
Advisory Task Force on Child Abuse and Neglect
Board of Child Abuse Examination
Office of Child Abuse Prevention
Interagency Child Abuse Prevention Task Force
Child Death Review Board
Interagency Coordinating Council for Early Childhood Intervention
Interstate Compact on the Placement of Children
Commission on Children and Youth and Interagency Coordinating Council
Office of Consumer Advocacy
Oklahoma Planning and Coordinating Council for Services to Children and Youth
Developmental Disabilities Council
Group Homes for the Developmentally Disabled or Physically Handicapped Persons Advisory Board
Eldercare Program Advisory Committee
Faith-based and Community Initiatives
Office of Public Guardian
Committee on Employment of the Handicapped
Advisory Committee on Hispanic Affairs
University Hospitals Authority

Department of Human Services and Commission for Human Services
Statewide Independent Living Council (SILC)
Indian Affairs Commission
Office of Juvenile Affairs and Board of Juvenile Affairs
Office of Juvenile Systems Oversight
Interdisciplinary Council on the Prevention of Juvenile Sex Offenses
Interstate Compact on Juveniles
State Advisory Committee on Juvenile Justice
Planning and Coordinating Council on Children and Youth
Physician Manpower Training Commission
Post Adjudication Review Advisory Board
Task Force Linking School Attendance with Public Assistance
Oklahoma Department of Rehabilitation Services
Santa Claus Commission
Community Social Services Center Authority
Joint Committee on State-Tribal Relations
Interim Task Force/Welfare & Medicaid Reform Council
Youth, Positive Development/Risk Behavior Prevention Collaboration Team

The **Secretary of the Military** shall be responsible for the following executive entities or their successors:

State Adjutant General
Military Department

The **Secretary of Safety and Security** shall be responsible for the following executive entities or their successors:

Board of Tests for Alcohol and Drug Influence
Alcohol and Drug Abuse Policy Board
Alcoholic Beverage Laws Enforcement Commission
Oklahoma Attorney General
Department of Civil Emergency Management and Civil Emergency Management Advisory Council
Department of Corrections
District Attorneys Council
Driver License Compact
Driver License Medical Advisory Committee
Office of State Fire Marshal
Hazardous Materials Emergency Response Commission
Highway Safety Coordinating Committee and Highway Safety Office
Office of Homeland Security Director (Interim)
Indigent Defense System Board and Appellate Indigent Defender System
Oklahoma State Bureau of Investigation and OSBI Commission
Council on Law Enforcement Education and Training
Office of Chief Medical Examiner and Board of Medicolegal Investigations
Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and OBNDCC Commission
Pardon and Parole Board
Polygraph Examiners Board
Department of Public Safety

Governor's Executive Panel on Security and Preparedness
Sick Leave Review Board

The **Secretary of Science and Technology** shall be responsible for the following executive entities or their successors:

Archeological Survey
Oklahoma Biological Survey
Climatological Survey
Geological Survey
Science and Technology Council
Oklahoma Science and Technology Research and Development Board
Center for the Advancement of Science and Technology and Health Research Committee
Oklahoma Institute of Technology

The **Secretary of State** shall be responsible for the following executive entities or their successors:

Secretary of State
State Election Board
Ethics Commission
Council on Judicial Complaints

The **Secretary of Transportation** shall be responsible for the following executive entities or their successors:

Aeronautics Commission
Highway Construction Materials Technician Certification Board
All Port Authorities

Oklahoma Space Industry Development Authority
Oklahoma Tourism Signage Advisory Task Force
Transportation Commission and Department of Transportation Trucking Advisory Board
Oklahoma Transportation Authority
Waterways Advisory Board

The **Secretary of Veterans Affairs** shall be responsible for the following executive entities or their successors:

Department of Veterans Affairs

It shall be the duty of each board, commission, agency or other entity of the executive branch of state government to facilitate the purposes of this Order and the Executive Branch Reform Act of 1986 and to cooperate fully with designated cabinet secretaries.

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 27day of February, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #03-335; filed 2-28-03]

Local Projects

Executive Order 95-26 requires executive agencies to "announce the availability of contracts for local project funds by publication in the *Oklahoma Register* at least one month prior to the deadline for applications for such contracts" [EO 95-26 (5)].

A "local project funding contract" is defined as "an agreement between a state agency and either a local government or private entity, or both, in which the state agency agrees to provide funding to the local government or private entity who agrees to accomplish a public purpose. In addition, the direct benefits of such a contract accrue primarily to the local population rather than the state as a whole. . . . Local project funding contracts do not include contracts subject to state competitive bidding statutory requirements." [EO 95-26 (1)].

For additional information on local projects, see Executive Order 95-26 [OAC 1:1995-26] and Attorney General Opinion 87-100.

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY Local Project Funding Contract Announcement

[OAR Docket #03-349]

DESCRIPTION OF PROJECT:

Federal cost-share funds are available through the State Board of Agriculture's Forest Resources Development Program (FRDP) to restore forest health and productivity on lands owned by eligible private landowners affected by the December 2000 ice storm in southeastern Oklahoma. Landowners may apply for funding to install approved forest improvement practices and receive reimbursement of up to 75 percent of eligible expenses. Practices must not begin prior to the award of contract and must be completed within one year of the date of award. Applications will be funded first-come first-served, to the extent that funds are available for the program.

Landowners applying for funding to perform site preparation and tree planting practices before the end of the 2002-2003 tree planting season (around April 1, 2003) will be given priority and funded immediately. All other applications will be funded first-come, first served (based upon the application date) until the funds run out. The application date is the date when a completed application package is received in Forestry Services' State Office.

FUNDS AVAILABLE:

The Department of Agriculture, Food, and Forestry expects to award approximately \$800,000 in federal cost-share funds for the ice storm program during the next two years. The maximum payment limitation is \$10,000 per landowner per State fiscal year.

ELIGIBILITY:

Eligible applicants include private individuals, groups, trusts and associations; federally recognized American Indian tribes or other Native American groups, provided that all tribal or group members request cost-sharing if they are on tribal or native land associations; corporations or other legal entities without publicly traded stock; or forest landowners who engage in primary processing of raw wood products only on a part-time or intermittent basis. Where land is owned jointly, the joint owners shall be considered as one eligible landowner.

Ineligible persons or entities include federal, state, or local governmental agencies or related entities; corporations with publicly traded stock; private entities that are principally engaged in primary processing of raw wood products or that

provide public utility services of any type or any subsidiary of such entities, including but not limited to paper mills, sawmills, pulp mills, plywood plants, oleoresin plants, power companies and railroads.

Funding is available only in the following counties where forests were severely damaged by the 2000 ice storm in southeastern Oklahoma: Atoka, Bryan, Carter, Choctaw, Coal, Garvin, Haskell, Hughes, Johnston, Latimer, LeFlore, Marshall, McCurtain, McIntosh, Murray, Pittsburg, Pontotoc, Pushmataha, Seminole and Sequoyah.

Landowners must own at least 10 contiguous acres of land in Oklahoma and own no more than 1,000 total acres. Practices to be installed must be primarily to restore or improve productive forests that were damaged by the 2000 ice storm, through site preparation, tree planting or forest improvement. Funds may not be used for practices involving ornamental trees, orchards or production of nursery stock.

(Authority: Federal Cooperative Forestry Assistance Act of 1978, as amended by the 1990 Farm Bill; Administrative Rules for the Forest Resources Development Program; O.S. Title 2, Section 2-4; Title 2 Article 16, Sections 16-10 through 16-13).

APPLICATION DEADLINE:

Applications will be accepted on a continuous basis.

CONTACT PERSON:

Kurt Atkinson, Assistant Director, Oklahoma Department of Agriculture, Food, and Forestry, Forestry Services Division, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298 (405) 522-6158.

[OAR Docket #03-349; filed 3-3-03]

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY Local Project Funding Contract Announcement

[OAR Docket #03-338]

DESCRIPTION OF THE PROJECT:

The Drinking Water State Revolving Fund (DWSRF) was made possible by the passage of the Safe Drinking Water Act Amendments of 1996. The act authorizes funds to be used by states to establish a revolving loan fund to address drinking water infrastructure needs and correct other water system deficiencies that might result in violations of drinking water standards. The Department of Environmental Quality (DEQ) in conjunction with the Oklahoma Water Resources Board

Local Projects

(OWRB) conducts project reviews for selecting those entities to be considered for low interest loans. The DEQ/OWRB will enter into loan agreements with the selected entities. A public meeting to receive comments on the SFY 2004 Intended Use Plan, Priority Ranking System, and the Project Priority List, which will include a listing of those entities which have expressed an interest in obtaining a loan from the DWSRF, will be held *May 15, 2003 at 1:30pm* in the DEQ Office Building, Multi-Purpose Room, at 707 N. Robinson, Oklahoma City, Oklahoma.

FUNDS AVAILABLE:

Uncommitted FFY 03, and FFY 04 federal funds; state matching funds; and interest on state funds totaling approximately *\$20 million* are anticipated to be available during SFY 2004 for drinking water loans.

ELIGIBILITY:

A potential loan recipient is any eligible public water supply system. The authority for this program is established by the Safe Drinking Water Act Amendments of 1996, Section 1452

and Title 82 of Oklahoma Statutes Annotated, Section 1085. Any entity wishing to obtain more information on eligibility for this program should contact Leandra "Andy" Callaway or Patty Thompson at (405) 702-8100.

APPLICATION DEADLINE:

Application deadline is within the current state fiscal year.

CONTACT PERSON:

For additional information regarding the Intended Use Plan or the public meeting, contact Leandra "Andy" Callaway at (405) 702-8100 or E-mail: Leandra.Callaway@deq.state.ok.us. A copy of the draft plan may be reviewed on the eighth floor at: Oklahoma Dept. of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

DEQ web page: www.deq.state.ok.us

[OAR Docket #03-338; filed 3-3-03]
