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Office of Administrative Rules



**Brad Henry, Governor**  
**M. Susan Savage,**  
**Secretary of State**  
**Peggy Coe, Managing Editor**

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# Notices of Rulemaking Intent

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

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

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

## **TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD**

*[OAR Docket #03-3190]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. Description of Organization

158:1-1-4. Administrator [AMENDED]

Subchapter 3. General Operation and Procedures

158:1-3-1. Address [AMENDED]

### **SUMMARY:**

The purpose of the proposed rules is to comply with the amendments in O.S. § Section 1000.2 of Title 59.

### **AUTHORITY:**

Construction Industries Board; 59 O.S. § 1000.4.

### **COMMENT PERIOD:**

Written and oral comments will be accepted between December 1, 2003 through January 13, 2004 during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

### **PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 1:30 p.m. on January 14, 2004 at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5 Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on January 13, 2004.

### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on January 13, 2004.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to December 15, 2003, and may be obtained from the Construction Industries Board at the above address.

### **CONTACT PERSON:**

Jeanne Britt, Liaison Officer, 405.271.2771

*[OAR Docket #03-3190; filed 11-7-03]*

## **TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD**

*[OAR Docket #03-3191]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 5. Procedure in Individual Proceedings

158:1-5-17. Notice of Violations and Compliance Orders  
[NEW]

### **SUMMARY:**

These proposed rules implement 59 O.S. Supp. 2003, §1000.9. The proposed rules will permit the Construction Industries Board or its designee to issue a written order directing a person or an entity to comply with any standard or rule adopted by the Board. Prior to an order being issued, the Board shall serve the person or entity subject to the order with a notice of violation. In addition to ordering compliance, the Board or its designee may assess an administrative fine for each day of non-compliance with the order. The proposed rules provide for a hearing upon the request of the person or entity subject to the order. These hearings and orders are subject to the Administrative Procedures act.

### **AUTHORITY:**

Construction Industries Board; 59 O.S. § 1000.4, and 1000.9.

### **COMMENT PERIOD:**

Written and oral comments will be accepted between December 1, 2003 through January 13, 2004 during regular business hours at the office of the Administrator, Construction

## Notices of Rulemaking Intent

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Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

### **PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 1:30 p.m. on January 14, 2004 at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5 Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on January 13, 2004.

### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on January 13, 2004.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to December 15, 2003, and may be obtained from the Construction Industries Board at the above address.

### **CONTACT PERSON:**

Jeanne Britt, Liaison Officer, 405.271.2771

*[OAR Docket #03-3191; filed 11-7-03]*

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## **TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 10. FINE SCHEDULE**

*[OAR Docket #03-3192]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 3. Administrative Fine Schedule  
158:10-3-4. Payment of fines [AMENDED]

### **SUMMARY:**

The purpose of the proposed rules is to change the location address of the Construction Industries Board for the payment of fines. The proposed rules will allow the Construction Industries Board to seek payment of unpaid outstanding fines through Contractor surety bonds.

### **AUTHORITY:**

Construction Industries Board; 59 O.S. § 1000.4.

### **COMMENT PERIOD:**

Written and oral comments will be accepted between December 1, 2003 through January 13, 2004, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

### **PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 1:30 p.m. on January 14, 2004, at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on January 13, 2004.

### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on January 13, 2004.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to December 15, 2003, and may be obtained from the Construction Industries Board at the above address.

### **CONTACT PERSON:**

Jeanne Britt, Liaison Officer, 405.271.2771

*[OAR Docket #03-3192; filed 11-7-03]*

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## **TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 30. PLUMBING INDUSTRY REGULATIONS**

*[OAR Docket #03-3193]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions  
158:30-1-4. Standard of installation [AMENDED]  
Subchapter 5. License Types, Bond Requirements and Display of License Number and Firm Name  
158:30-5-2. Bond requirements [AMENDED]

- 158:30-5-4. Plumbing Journeymen and Contractor Licenses by Reciprocity [NEW]
- Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
- 158:30-9-2. Fee schedule for contractors, journeymen, and apprentices [AMENDED]
- 158:30-9-3. Duration of Licenses [AMENDED]
- 158:30-9-4. Continuing Education [NEW]
- Subchapter 11. License Revocation or Suspension and Prohibited Acts
- 158:30-11-2. Prohibited acts [AMENDED]

**SUMMARY:**

The purpose of these rules is to allow the Construction Industries Board or its representatives to enforce the 2003 International Plumbing Code. The rule changes set forth insurance requirements for Plumbing Contractors. The rule changes provide a means to issue licenses by reciprocity and to enter into mutual agreements with other states to recognize licenses. A fee pursuant to Section 1000.5 Section 1037 of Title 59 of the Oklahoma Statutes shall accompany the reciprocity application, which shall not be refundable under any circumstances. The fees shall be used by the agency to regulate the plumbing trade. The rule changes establish a method for prorating license fees to coincide with the birth date of the licensee. The rule provides provisions for administering new continuing education requirements according to 59 O.S. 2003, Section 1009. The rule change establishes administrative fines for any person or entity denying the Board or its representatives' access to a job site for purposes of enforcing any of the provisions of the Plumbing License Law of 1955. The Board may seek payment through the surety or surety bond of any fines or penalties that the licensee fails to pay.

**AUTHORITY:**

Construction Industries Board; 59 O.S. §§ 1000.4 and 1002.

**COMMENT PERIOD:**

Written and oral comments will be accepted between December 1, 2003 through January 13, 2004, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

**PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 1:30 p.m. on January 14, 2004, at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue

loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on January 13, 2004.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on January 13, 2004.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to December 15, 2003, and may be obtained from the Construction Industries Board at the above address.

**CONTACT PERSON:**

Jeanne Britt, Liaison Officer, 405.271.2771

*[OAR Docket #03-3193; filed 11-7-03]*

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS**

*[OAR Docket #03-3194]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Licensing Requirements, Display of License and Firm Name, and Bond Requirements
- 158:40-5-5. Bond requirements [AMENDED]
- Subchapter 7. License Classifications
- 158:40-7-5. Unlimited journeyman licenses by reciprocity [NEW]
- Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
- 158:40-9-3. License and registration fees and renewals [AMENDED]
- Subchapter 11. License Revocation or Suspension and Prohibited Acts
- 158:40-11-2. Prohibited acts [AMENDED]

**SUMMARY:**

The rule changes provide a means to issue licenses by reciprocity and to enter into mutual agreements with other states to recognize licenses. A fee pursuant to Section 1000.5 Section 1037 of Title 59 of the Oklahoma Statutes shall accompany the reciprocity application, which shall not be refundable under any circumstances. The fees shall be used by the agency to regulate the electrical trade. The rule changes establish a method for prorating license fees to coincide with the birth date of the licensee. The rule changes establish administrative fines for any person or entity denying the Board or its representatives access to a job site for purposes of enforcing any of the provisions of the Electrical Licensing

## Notices of Rulemaking Intent

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Law. The Board may seek payment through the surety bond of any fines or penalties that the licensee fails to pay.

### **AUTHORITY:**

Construction Industries Board; 59 O.S. §§ 1000.4 and 1681.

### **COMMENT PERIOD:**

Written and oral comments will be accepted between December 1, 2003 and January 13, 2004, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

### **PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 1:30 p.m. on January 14 2004, at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on January 13, 2004.

### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on January 13, 2004.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to December 15, 2003, and may be obtained from the Construction Industries Board at the above address.

### **CONTACT PERSON:**

Jeanne Britt, Liaison Officer, 405.271.2771

*[OAR Docket #03-3194; filed 11-7-03]*

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## **TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS**

*[OAR Docket #03-3195]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions

158:50-1-4. Adopted references and standard of workmanship [AMENDED]

Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number and Firm Name.

158:50-5-3. Contractor special requirements [AMENDED]

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration.

158:50-9-2. License and registration fees and renewals [AMENDED]

158:50-9-3. Duration of licenses [AMENDED]

158:50-9-6. Mechanical journeyman and contractor licenses by reciprocity [NEW]

158:50-9-7. Continuing Education [NEW]

Subchapter 11. License Revocation or Suspension and Prohibited Acts.

158:50-11-2. Prohibited acts [AMENDED]

### **SUMMARY:**

The rule changes allow the Construction Industries Board or its representatives to enforce the 2003 International Mechanical Code. The rule changes provide a means to issue licenses by reciprocity and to enter into mutual agreements with other states to recognize licenses. A fee pursuant to Section 1000.5 Section 1037 of Title 59 of the Oklahoma Statutes shall accompany the reciprocity application, which shall not be refundable under any circumstances. The fees shall be used by the agency to regulate the mechanical trade. The rule provides provisions for administering new continuing education requirements according to 59 O.S. 2003, Section 1850.8. The rule changes establish a method for prorating license fees to coincide with the birth date of the licensee. The rule allows licensees to renew an expired license without further examination if accompanied by a late fee, the required CEU's, and bond as applicable. The rule changes establish administrative fines for any person or entity denying the Board or its representatives access to a job site for purposes of enforcing any of the provisions of the Mechanical Licensing Law. The Board may seek payment through the surety bond of any fines or penalties that the licensee fails to pay.

### **AUTHORITY:**

Construction Industries Board; 59 O.S. § 1000.4 and 1850.3.

### **COMMENT PERIOD:**

Written and oral comments will be accepted between December 1, 2003 through January 13, 2004, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

### **PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 1:30 p.m. on January 14, 2004, at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on January 13, 2004.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on January 13, 2004.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to December 15, 2003, and may be obtained from the Construction Industries Board at the above address.

**CONTACT PERSON:**

Jeanne Britt, Liaison Officer, 405.271.2771

*[OAR Docket #03-3195; filed 11-7-03]*

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 60. INSPECTORS REGULATIONS**

*[OAR Docket #03-3196]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Categories And Classifications Of Inspector Licenses, Qualifications For Inspector Licensure, License Requirements For Inspectors, Fees, Certification And Continuing Education For Inspectors, And Continuing Education Courses

158:60-5-4. Fees, certification and continuing education for inspectors [AMENDED]

**SUMMARY:**

The Construction Industries Board is required to establish by rule a method for prorating license fees to coincide with the birth date of the licensee.

**AUTHORITY:**

Construction Industries Board; 59 O.S. §§ 1000.4 and 1032.

**COMMENT PERIOD:**

Written and oral comments will be accepted between December 1, 2003 through January 13, 2004, during regular

business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

**PUBLIC HEARING:**

A public hearing on these proposed rules will be held at 1:30 p.m. on January 14, 2004, at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on January 13, 2004.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on January 13, 2004.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to December 15, 2003, and may be obtained from the Construction Industries Board at the above address.

**CONTACT PERSON:**

Jeanne Britt, Liaison Officer, 405.271.2771

*[OAR Docket #03-3196; filed 11-7-03]*

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

*[OAR Docket #03-3168]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Internet Use  
240:5-3-4. Penalties for violations [AMENDED]

**SUMMARY:**

The amendment to this rule corrects a typographical error in a rule citation in the text of the rule.

**AUTHORITY:**

40 O.S. §§4-302; and the Oklahoma Employment Security Commission.

## Notices of Rulemaking Intent

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### REQUEST FOR COMMENTS:

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

### COMMENT PERIOD:

Written and oral comments will be accepted through December 31, 2003, during regular business hours by the contact person listed below.

### PUBLIC HEARING:

No public hearing is scheduled at this time, but will be scheduled if a written request is submitted to the contact person listed below by: (1) at least twenty-five individuals, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review from the contact person listed below.

### RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review from the contact person listed below.

### CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: [Melissa.Copenhaver@oesc.state.ok.us](mailto:Melissa.Copenhaver@oesc.state.ok.us)

*[OAR Docket #03-3168; filed 11-5-03]*

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

*[OAR Docket #03-3168A]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. Benefits

Part 9. Disqualification

240:10-3-41. Application of retirement proceeds and severance pay [AMENDED]

240:10-3-44. Domestic violence or abuse [NEW]

240:10-3-45. Cases involving positive drug or alcohol tests [NEW]

Subchapter 13. Appeal Tribunal Procedure

Part 3. Appeals to Appeal Tribunal

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

Part 5. Hearings

240:10-13-45. Legal fees [REVOKED]

### SUMMARY:

The amendment to 240:10-3-41 will change the way severance pay is deducted from unemployment benefits. Once passed, severance pay will be deducted in the week that severance pay is received. 240:10-3-44 is a new rule required by legislation passed in 2003. This rule will set out the requirement that if a claimant separated from employment as part of a plan to escape domestic violence or abuse, this would be deemed good cause for quitting work and benefits would be allowed if a victim's protection order is in effect on the date of separation. 240:10-3-45 is a new rule that will set out the minimum documentation required by the Standards for Workplace Drug and Alcohol Testing Act. 240:10-13-20 is being amended to implement a statutory change made in 2003. This rule amendment will allow appeals to the Appeal Tribunal to be filed by telephone. 240:10-13-45 is being revoked because the granting of attorney's fees is within the jurisdiction of the Board of Review and not the Appeal Tribunal.

### AUTHORITY:

40 O.S. §§2-405(5), 2-603, 4-302; 551 through 565; and the Oklahoma Employment Security Commission.

### REQUEST FOR COMMENTS:

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

### COMMENT PERIOD:

Written and oral comments will be accepted through December 31, 2003, during regular business hours by the contact person listed below.

### PUBLIC HEARING:

No public hearing is scheduled at this time, but will be scheduled if a written request is submitted to the contact person listed below by: (1) at least twenty-five individuals, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

### COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review from the contact person listed below.

### RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review from the contact person listed below.

### CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039,

or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us.

[OAR Docket #03-3168A; filed 11-5-03]

**TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION  
CHAPTER 12. TRADE ACT PROGRAMS**

[OAR Docket #03-3168B]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Reemployment Services  
240:12-5-4. Maximum cost of training [REVOKED]

**SUMMARY:**

This rule is being revoked from the Trade Act Program rules because federal law no longer requires the state to set a maximum cost of training.

**AUTHORITY:**

40 O.S. Sections 4-302; 19 U.S. C. §§2271 through 2331; and Oklahoma Employment Security Commission.

**REQUEST FOR COMMENTS:**

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

**COMMENT PERIOD:**

Written and oral comments will be accepted through December 31, 2003, during regular business hours by the contact person listed below.

**PUBLIC HEARING:**

No public hearing is scheduled at this time, but will be scheduled if a written request is submitted to the contact person listed below by: (1) at least twenty-five individuals, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review from the contact person listed below.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review from the contact person listed below.

**CONTACT PERSON:**

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039,

or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us.

[OAR Docket #03-3168B; filed 11-5-03]

**TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION  
CHAPTER 15. BOARD OF REVIEW PROCEDURES**

[OAR Docket #03-3168C]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
240:15-1-5. ~~Attorneys or representative, fees~~ Attorneys and representatives [AMENDED]  
240:15-1-7. Attorney fees - approval [NEW]

**SUMMARY:**

240:15-1-5 is being amended to clarify its language and to remove the procedures for attorney's to claim attorney fees in unemployment benefit cases. 240:15-1-7 is a new rule that sets out the current procedures for an attorney to claim attorney fees in unemployment benefits case.

**AUTHORITY:**

40 O.S. §§2-607, 2-302, 4-302; and Oklahoma Employment Security Commission.

**REQUEST FOR COMMENTS:**

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

**COMMENT PERIOD:**

Written and oral comments will be accepted through December 31, 2003, during regular business hours by the contact person listed below.

**PUBLIC HEARING:**

No public hearing is scheduled at this time, but will be scheduled if a written request is submitted to the contact person listed below by: (1) at least twenty-five individuals, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review from the contact person listed below.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review from the contact person listed below.

## Notices of Rulemaking Intent

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### CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us.

*[OAR Docket #03-3168C; filed 11-5-03]*

### TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

*[OAR Docket #03-3184]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

- Subchapter 3. Incorporation by Reference
- 252:205-3-1. Reference to 40 CFR [AMENDED]
- 252:205-3-2. Incorporation by reference [AMENDED]
- Subchapter 21. Fees
- 252:205-21-5. Delisting Fees [NEW]
- Subchapter 25. Additional Hazardous Waste Delisting Requirements [NEW]
- Appendix D. Delisting Application Fees [NEW]
- Appendix E. Facilities Approved for Delisting [NEW]

### SUMMARY:

The purpose of the proposed amendment to 252:205-3-1 is to adopt by reference the federal hazardous waste regulations found in Title 40 of the Code of Federal Regulations (40 CFR) revised as of July 1, 2003. Specifically the following federal registers amend the rules that were adopted by reference in January 2003: 1) 67 FR 48393, published July 24, 2002, regarding zinc fertilizers made from recycled hazardous secondary materials; 2) 67 FR 62618, published October 7, 2002, regarding a national treatment variance to designated new treatment subcategories for radioactively contaminated batteries; 3) 67 FR 77687, published December 19, 2002, regarding the standards for hazardous air pollutants for hazardous waste combustors [corrections to NESHAP].

The purpose of the proposed amendment to 252:205-3-2 is to correct specific errors in the 2002 and preceding 40 CFR. The sections of the 40 CFR affected include: 261.4(b)(18) which pertains to Utah only, thus should be excluded; 265.340(b)(1) and (2) to correct errors by excluding the sentence pertaining to MCAT standards and to include the MCAT requirements of Part 63 Subpart EEE; 268.7(a)(9)(iii) to exclude D009 from the list of alternative treatment standards for lab backs, since D009 is included in Appendix IV; and to correct the adoption by reference pertaining to 268.44 for purposes of State Authorization.

The DEQ adopted the Federal delisting rules by reference, which became effective in Oklahoma on June 9, 2003. The purpose of this rulemaking is to make changes to the Federal

rules previously adopted by reference, and to add a new Subchapter 25 to the DEQ rules to implement the delisting program in Oklahoma.

The proposed amendment to 252:205-21 and the proposed new Appendix D adds a fee for delisting applications. The application fee is in addition to the basic application fee.

The proposed new Appendix E is established to include, the facility name, location and delisted waste, upon completion of the delisting process.

### AUTHORITY:

Environmental Quality Board and Hazardous Waste Management Advisory Council powers and duties, 27A O.S., §§ 2-2-101, 2-2-104, 2-2-201, 2-7-105, and 2-7-106

### COMMENT PERIOD:

Comments may be made, delivered or mailed to the contact person from December 1, 2003 through January 7, 2004. Oral comments may be made at the meeting of the Hazardous Waste Management Advisory Council, January 8, 2004, and at the Environmental Quality Board meeting, February 27, 2004.

### PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council Meeting on January 8, 2004, at 10:00 a.m. at the Oklahoma City office of the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 27, 2004 at 9:30 a.m. at the Oklahoma City office of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

### COPY OF PROPOSED RULE:

The proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed on-line at [www.deq.state.ok.us](http://www.deq.state.ok.us).

### RULE IMPACT STATEMENT:

The rule impact statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from the contact person.

### CONTACT PERSON:

Gail Hamill, (405) 702-5100, 707 N. Robinson, Fifth Floor, mailing address P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

### ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing. For

hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.

[OAR Docket #03-3184; filed 11-7-03]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 605. DISCHARGE STANDARDS**

[OAR Docket #03-3188]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 605. Discharge Standards [REVOKED]

**SUMMARY:**

Chapter 605 of the Oklahoma Administrative Code is proposed to be revoked concurrently with the adoption of Chapter 606, Oklahoma Pollutant Discharge Elimination System (OPDES) Standards. Chapter 606 is the result of a review and minor changes to existing rules and the merging of two chapters, 605 Discharge Standards and 648 Land Application of Biosolids, to place all OPDES requirements in one chapter rather than split between two.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201 and the Oklahoma Pollution Discharge Elimination System Act, 27A O.S. § 2-6-201 *et seq.*

**COMMENT PERIOD:**

Written comments will be accepted from December 1, 2003 to January 13, 2004. Oral comments will be allowed at the Water Quality Management Advisory Council hearing on January 13, 2004 and at the February 27, 2004 Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on January 13, 2004, at the Oklahoma Department of Environmental Quality Central Office, 707 N. Robinson, Oklahoma City, OK 73101.

Before the Environmental Quality Board at 9:30 a.m. on February 27, 2004 at the Oklahoma Department of Environmental Quality Central Office, 707 N. Robinson, Oklahoma City, OK 73101.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The DEQ requests that business entities affected by the proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rules. Other persons may provide comments

regarding a specific rule. Comments should not be of a general nature.

**COPIES OF PROPOSED RULES:**

The proposed rules may be obtained from the contact person and reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, 73102, or from the DEQ webpage at <http://www.deq.state.ok.us/WQDnew/index.htm>.

**RULE IMPACT STATEMENT:**

The rule impact statement for the proposed rules may be obtained from the contact person or from the DEQ webpage at <http://www.deq.state.ok.us/WQDnew/index.htm>.

**CONTACT PERSON:**

Contact Shellie Chard-McClary at (405) 702-8100 (phone) or 702-8101 (fax) or [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

**ADDITIONAL INFORMATION:**

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #03-3188; filed 11-7-03]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM**

[OAR Docket #03-3187]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 606. Oklahoma Pollutant Discharge Elimination System [NEW]

**SUMMARY:**

The proposed new Chapter 606 combines Chapters 605 (Discharge Standards) and 648 (Land Application of Biosolids) of the Oklahoma Administrative Code, both of which will be revoked concurrently with the adoption of Chapter 606. Chapter 606 is the result of merging the two NPDES (OPDES) rule chapters into one in order to eliminate the confusion of moving between two chapters for regulations for one program. Additionally, the incorporation of federal regulations was updated. Finally, language was clarified to make the regulations more readable and understandable. No new technical requirements were made and no changes were made to the fees contained in each chapter.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201 and the Oklahoma

## Notices of Rulemaking Intent

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Pollution Discharge Elimination System Act, 27A O.S. § 2-6-201 *et seq.*

### **COMMENT PERIOD:**

Written comments will be accepted from December 1, 2003 to January 13, 2004. Oral comments will be allowed at the Water Quality Management Advisory Council hearing on January 13, 2004 and at the February 27, 2004 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on January 13, 2004, at the Oklahoma Department of Environmental Quality Central Office, 707 N. Robinson, Oklahoma City, OK 73101.

Before the Environmental Quality Board at 9:30 a.m. on February 27, 2004 at the Oklahoma Department of Environmental Quality Central Office, 707 N. Robinson, Oklahoma City, OK 73101.

### **REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The DEQ requests that business entities affected by the proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rules. Other persons may provide comments regarding a specific rule. Comments should not be of a general nature.

### **COPIES OF PROPOSED RULES:**

The proposed rules may be obtained from the contact person and reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, 73102, or from the DEQ webpage at <http://www.deq.state.ok.us/WQDnew/index.htm>.

### **RULE IMPACT STATEMENT:**

The rule impact statement for the proposed rules may be obtained from the contact person or from the DEQ webpage at <http://www.deq.state.ok.us/WQDnew/index.htm>.

### **CONTACT PERSON:**

Contact Shellie Chard-McClary at (405) 702-8100 (phone) or 702-8101 (fax) or [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

### **ADDITIONAL INFORMATION:**

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #03-3187; filed 11-7-03]

## **TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 616. INDUSTRIAL WASTEWATER SYSTEMS**

[OAR Docket #03-3186]

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. Introduction [AMENDED]

Subchapter 3. Permit Procedures [AMENDED]

Subchapter 5. General Standards [AMENDED]

Subchapter 11. Land Application Standards [AMENDED]

### **SUMMARY:**

The proposed amendments to Chapter 616 include changes to a definition as requested by a Council member, updating rule citations, and clarification to a section of the rules for more efficient readability and understanding.

### **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201 and the Article VI. Water Quality, 27A O.S. § 2-6-101 *et seq.*

### **COMMENT PERIOD:**

Written comments will be accepted from December 1, 2003 to January 13, 2004. Oral comments will be allowed at the Water Quality Management Advisory Council hearing on January 13, 2004 and at the February 27, 2004 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on January 13, 2004, at the Oklahoma Department of Environmental Quality Central Office, 707 N. Robinson, Oklahoma City, OK 73101.

Before the Environmental Quality Board at 9:30 a.m. on February 27, 2004 at the Oklahoma Department of Environmental Quality Central Office, 707 N. Robinson, Oklahoma City, OK 73101.

### **REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The DEQ requests that business entities affected by the proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rules. Other persons may provide comments regarding a specific rule. Comments should not be of a general nature.

### **COPIES OF PROPOSED RULES:**

The proposed rules may be obtained from the contact person and reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, 73102, or from the DEQ webpage at <http://www.deq.state.ok.us/WQDnew/index.htm>.

**RULE IMPACT STATEMENT:**

The rule impact statement for the proposed rules may be obtained from the contact person or from the DEQ webpage at <http://www.deq.state.ok.us/WQDnew/index.htm>.

**CONTACT PERSON:**

Contact Shellie Chard-McClary at (405) 702-8100 (phone) or 702-8101 (fax) or [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

**ADDITIONAL INFORMATION:**

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

*[OAR Docket #03-3186; filed 11-7-03]*

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 641. INDIVIDUAL AND SMALL PUBLIC ON-SITE SEWAGE DISPOSAL SYSTEMS**

*[OAR Docket #03-3189]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 641. Individual and Small Public On-Site Sewage ~~Disposal~~ Treatment Systems [AMENDED]

**SUMMARY:**

There are seven main reasons for this proposed rulemaking. The first is to increase fees, which resulted in restructuring the fee schedule, to compensate for the recently cut state allocated dollars. This increase will help to ensure that the on-site programs will be able to continue to operate at their current level despite the budget cuts.

The second is to change the terminology throughout the Chapter from "disposal of sewage" to "treatment of sewage" to more accurately reflect our philosophy that sewage should be properly treated and not just disposed of.

The third is to add new requirements for performing percolation tests so that the percolation test can be used to assure that there is 6" of "good soil" below the system. Currently, the rules are allowing systems to be installed up to 6" deeper than percolation test holes, which is causing systems to fail due to poor soil conditions or groundwater.

The fourth is to require that a soil test be performed in areas where ET/A systems are installed in order to ensure that the ET/A system is the proper system for the soil type and to assure that groundwater is not within 6" of the bottom of the trench.

The fifth is to require that certified soil profilers perform soil texturing exercises throughout the year and that they pass an annual texturing test so that DEQ can assure their continued competency.

The sixth is to allow installers to be certified in any combination of the following individual categories: subsurface systems, lagoons, and aerobic systems. Under the current classification system, installers have to first become certified in subsurface systems before upgrading to lagoons and then to aerobic systems.

The seventh is to require a dosing tank for aerobic systems through the alternative system process when the maximum daily flow exceeds the aerobic treatment unit's daily capacity so that sewage is properly treated before being land applied.

In a continuing effort to update these rules, this rulemaking also: makes the fencing requirements for small public lagoons consistent with 252:656 Water Pollution Control Facility Construction; adds the requirement that openings to aerobic systems be secured for public safety reasons; clarifies lagoon leakage test requirements to ensure that sewage is not allowed to seep through the bottom of lagoons; clarifies that the 50' separation distance for lagoons to buildings only applies to off-site residences; removes the reduction for sizing subsurface systems when water conservation devices are used to avoid organically overloading the system; updates the standards for plastic septic tanks; adds the requirement that the person performing the presoak for a soil percolation test sign the Report for On-Site Sewage Form attesting that they followed the presoak requirements; adds the requirement that all installers must have a \$10,000 bond since, with the new classification system, an installer in any of the classes could install systems valued at \$10,000 or more; adds provisions so that tribes and other governmental entities may meet the financial assurance requirements by providing documentation that the entity will pay for the repair of faulty or improperly installed systems; adds specifications for pressure pipe that were previously omitted; adds a new fee for the review of Alternative Systems permit applications; renames Subchapter 11 to apply to all subsurface systems and reorganizes Subchapter 11 to make it easier to read; and it also makes other clarifications, formatting changes and typographical corrections.

**AUTHORITY:**

Environmental Quality Board; 27A O.S. 2001 §§ 2-2-101, 2-2-201 and 2-6-402; and 59 O.S.2001 § 1158

**COMMENT PERIOD:**

Deliver or mail written comments to the contact person from December 1, 2003, through December 31, 2003. Oral comments may be made at the January 13, 2004, Water Quality Management Advisory Council meeting and at the February 27, 2004 Environmental Quality Board hearing.

**PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on January 13, 2004, in the Multi-Purpose Room (1st floor), DEQ Building, 707 N. Robinson, Oklahoma City, Oklahoma 73101.

Before the Environmental Quality Board at 9:30 a.m. on February 27, 2004, in the Multi-Purpose Room (1st floor), DEQ Building, 707 N. Robinson, Oklahoma City, Oklahoma 73101.

## Notices of Rulemaking Intent

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### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person at the Department of Environmental Quality.

### RULE IMPACT STATEMENT:

The rule impact statement for the proposed rules will be on file at the Department of Environmental Quality, and may be requested from the contact person.

### CONTACT PERSON:

Contact Robert Huber at Robert.Huber@deq.state.ok.us (e-mail) or (405) 702-6222 (phone). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

### ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

*[OAR Docket #03-3189; filed 11-7-03]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 648. LAND APPLICATION OF BIOSOLIDS

*[OAR Docket #03-3185]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Chapter 648. Land Application of Biosolids [REVOKED]

### SUMMARY:

Chapter 648 of the Oklahoma Administrative Code is proposed to be revoked concurrently with the adoption of Chapter 606, Oklahoma Pollutant Discharge Elimination System (OPDES) Standards. Chapter 606 is the result of a review and minor changes to existing rules and the merging of two chapters, 605 Discharge Standards and 648 Land Application of Biosolids, to place all OPDES requirements in one chapter rather than split between two.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council

powers and duties, 27A O.S. § 2-2-201 and the Oklahoma Pollution Discharge Elimination System Act, 27A O.S. § 2-6-201 *et seq.*

### COMMENT PERIOD:

Written comments will be accepted from December 1, 2003 to January 13, 2004. Oral comments will be allowed at the Water Quality Management Advisory Council hearing on January 13, 2004 and at the February 27, 2004 Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Water Quality Management Advisory Council at 1:00 p.m. on January 13, 2004, at the Oklahoma Department of Environmental Quality Central Office, 707 N. Robinson, Oklahoma City, OK 73101.

Before the Environmental Quality Board at 9:30 a.m. on February 27, 2004 at the Oklahoma Department of Environmental Quality Central Office, 707 N. Robinson, Oklahoma City, OK 73101.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by the proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rules. Other persons may provide comments regarding a specific rule. Comments should not be of a general nature.

### COPIES OF PROPOSED RULES:

The proposed rules may be obtained from the contact person and reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, 73102, or from the DEQ webpage at <http://www.deq.state.ok.us/WQDnew/index.htm>.

### RULE IMPACT STATEMENT:

The rule impact statement for the proposed rules may be obtained from the contact person or from the DEQ webpage at <http://www.deq.state.ok.us/WQDnew/index.htm>.

### CONTACT PERSON:

Contact Shellie Chard-McClary at (405) 702-8100 (phone) or 702-8101 (fax) or shellie.chard-mcclary@deq.state.ok.us. The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

### ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

*[OAR Docket #03-3185; filed 11-7-03]*

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

*[OAR Docket #03-3181]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 8. Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule [NEW]  
340:2-8-1 through 340:2-8-14 [NEW]  
**(Reference APA WF # 03-17)**

**SUMMARY:**

The purpose of the proposed rules is to implement provisions of the HIPAA that protect client health information and allow clients the right to exercise more control over their protected health information. Without approval of the proposed rules, the Oklahoma Department of Human Services (OKDHS) will be out of compliance with HIPAA.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Parts 160 and Subparts A and E of Part 164 of Title 45 of the Code of Federal Regulations, the Health Insurance Portability and Accountability Act (HIPAA).

**COMMENT PERIOD:**

Written and oral comments will be accepted December 1, 2003 through December 31, 2003 during regular business hours by contacting Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than December 31, 2003 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

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

*[OAR Docket #03-3181; filed 11-7-03]*

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

*[OAR Docket #03-3180]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. Low Income Home Energy Assistance Program  
340:20-1-10 through 340:20-1-11 [AMENDED]  
340:20-1-17 [AMENDED]  
**(Reference APA WF # 03-18)**

**SUMMARY:**

The proposed revisions to Chapter 20 provide Oklahoma Department of Human Services (OKDHS) staff with guidance regarding illegal alien ineligibility, treatment of illegal alien income, and revises Energy Crisis Assistance Program (ECAP) income guidelines. Rules are revised to: (1) allow an illegal alien to reside in an eligible household; (2) explain the treatment of illegal alien income and reflect the correct rule cites; and (3) simplify the ECAP income criteria.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Title XXVI of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 1, 2003 through December 31, 2003 during regular business hours by contacting Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than December 31, 2003 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

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

*[OAR Docket #03-3180; filed 11-7-03]*

## Notices of Rulemaking Intent

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### **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES**

*[OAR Docket #03-3199]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 1. Office of the Executive Director

Part 3. Office of the Advocate General

377:3-1-20. through 377:3-1-30. [AMENDED]

#### **SUMMARY:**

Office of Juvenile Affairs (OJA) rules are being revised to reflect rule changes made by the Department of Human Services, Office of Client Advocacy (OCA) division. OJA will adopt the investigative findings as set forth by OCA from "Caretaker Mistreatment" to "Caretaker Misconduct." Rules are also being amended to correct the flow of information throughout the juvenile grievance system.

#### **AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

#### **COMMENT PERIOD:**

Written comments will be accepted during regular business hours from December 1, 2003 through January 1, 2004 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to [robmor@oja.state.ok.us](mailto:robmor@oja.state.ok.us). During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

#### **PUBLIC HEARING:**

A Public Hearing will be held at 9:00 a.m. on January 5, 2004 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

#### **COPIES OF THE PROPOSED RULES:**

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

#### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on and after December 16, 2003 at the above address for the Office of Juvenile Affairs.

#### **CONTACT PERSON:**

Robert Morey, Office of Policy, (405)530-2820

*[OAR Docket #03-3199; filed 11-7-03]*

### **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES**

*[OAR Docket #03-3200]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 7. Finance Division

377:3-7-4. [AMENDED]

#### **SUMMARY:**

Rules are being amended to reflect changes in the requirements by the State Auditor & Inspector and Office of State Finance to ensure the Office of Juvenile Affairs is complying with all provisions and regulations.

#### **AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

#### **COMMENT PERIOD:**

Written comments will be accepted during regular business hours from December 1, 2003 through January 1, 2004 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to [robmor@oja.state.ok.us](mailto:robmor@oja.state.ok.us). During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

#### **PUBLIC HEARING:**

A Public Hearing will be held at 9:00 a.m. on January 5, 2004 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

#### **COPIES OF THE PROPOSED RULES:**

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

#### **RULE IMPACT STATEMENT:**

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

December 16, 2003 at the above address for the Office of Juvenile Affairs.

**CONTACT PERSON:**

Robert Morey, Office of Policy, (405)530-2820

*[OAR Docket #03-3200; filed 11-7-03]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 10. DEPARTMENT OF  
JUVENILE JUSTICE**

*[OAR Docket #03-3201]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
377:10-1-16 [NEW]

**SUMMARY:**

High Risk Transport rules/procedures are being moved from Chapter 25 to Chapter 10 due to the utilization of the services by multiple Office of Juvenile Affairs divisions.

**AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

**COMMENT PERIOD:**

Written comments will be accepted during regular business hours from December 1, 2003 through January 1, 2004 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to robmor@oja.state.ok.us. During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

**PUBLIC HEARING:**

A Public Hearing will be held at 9:00 a.m. on January 5, 2004 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

**COPIES OF THE PROPOSED RULES:**

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on and after December 16, 2003 at the above address for the Office of Juvenile Affairs.

**CONTACT PERSON:**

Robert Morey, Office of Policy, (405)530-2820

*[OAR Docket #03-3201; filed 11-7-03]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 25. JUVENILE SERVICES UNIT**

*[OAR Docket #03-3202]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 7. Custody  
Part 5. Rules of Supervised Community Placement  
377:25-7-29. [AMENDED]

**SUMMARY:**

Rules are being amended to clarify the District Supervisor's authority to make findings and recommendations during district review hearings.

**AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

**COMMENT PERIOD:**

Written comments will be accepted during regular business hours from December 1, 2003 through January 1, 2004 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to robmor@oja.state.ok.us. During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

**PUBLIC HEARING:**

A Public Hearing will be held at 9:00 a.m. on January 5, 2004 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

**COPIES OF THE PROPOSED RULES:**

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention

## Notices of Rulemaking Intent

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of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on and after December 16, 2003 at the above address for the Office of Juvenile Affairs.

### **CONTACT PERSON:**

Robert Morey, Office of Policy, (405)530-2820

*[OAR Docket #03-3202; filed 11-7-03]*

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### **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 25. JUVENILE SERVICES UNIT**

*[OAR Docket #03-3203]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 9. Casework Services

Part 1. Services Provided by the JSU Worker

377:25-9-2. through 377:25-9-2.1. [AMENDED]

### **SUMMARY:**

Rules are amended to reflect the current case planning system; Individual Treatment and Services Plan (ITSP). The ITSP is an automated system for use by the Office of Juvenile Affairs (OJA) workers in developing and maintaining treatment plans.

### **AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

### **COMMENT PERIOD:**

Written comments will be accepted during regular business hours from December 1, 2003 through January 1, 2004 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to [robmor@oja.state.ok.us](mailto:robmor@oja.state.ok.us). During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

### **PUBLIC HEARING:**

A Public Hearing will be held at 9:00 a.m. on January 5, 2004 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

### **COPIES OF THE PROPOSED RULES:**

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on and after December 16, 2003 at the above address for the Office of Juvenile Affairs.

### **CONTACT PERSON:**

Robert Morey, Office of Policy, (405)530-2820

*[OAR Docket #03-3203; filed 11-7-03]*

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### **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 35. INSTITUTIONAL SERVICES**

*[OAR Docket #03-3204]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 3. Security and Control

377:35-3-8. [AMENDED]

### **SUMMARY:**

Rules are being amended to outline the use of search techniques of juveniles, visitors, and employees in the institutional setting.

### **AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

### **COMMENT PERIOD:**

Written comments will be accepted during regular business hours from December 1, 2003 through January 1, 2004 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to [robmor@oja.state.ok.us](mailto:robmor@oja.state.ok.us). During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

### **PUBLIC HEARING:**

A Public Hearing will be held at 9:00 a.m. on January 5, 2004 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information

in writing to Robert Morey at the above address during the comment period.

**COPIES OF THE PROPOSED RULES:**

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on and after December 16, 2003 at the above address for the Office of Juvenile Affairs.

**CONTACT PERSON:**

Robert Morey, Office of Policy, (405)530-2820

*[OAR Docket #03-3204; filed 11-7-03]*

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

*[OAR Docket #03-3162]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions
  - 450:16-1-1. [AMENDED]
  - 450:16-1-2. [AMENDED]
- Subchapter 5. Services
  - 450:16-5-1. [AMENDED]
  - 450:16-5-2. [AMENDED]
- Subchapter 11. Safety
  - 450:16-11-2. [AMENDED]
- Subchapter 13. Quality of Life
  - 450:16-13-2. [AMENDED]
  - 450:16-13-3. [AMENDED]
  - 450:16-13-12.1. [AMENDED]
  - 450:16-13-12.2. [NEW]
  - 450:16-13-16. [AMENDED]
  - 450:16-13-27.1. [AMENDED]
  - 450:16-13-33.2. [AMENDED]
- Subchapter 15. Resident Rights
  - 450:16-15-1. [AMENDED]
  - 450:16-15-2. [REVOKED]
  - 450:16-15-3. [REVOKED]
  - 450:16-15-4. [REVOKED]
  - 450:16-15-5. [REVOKED]
  - 450:16-21-1. [AMENDED]
  - 450:16-21-4. [AMENDED]
  - 450:16-29-2. [AMENDED]

- 450:16-29-2.1. [AMENDED]
- 450:16-29-4. [AMENDED]
- 450:16-29-6. [AMENDED]
- 450:16-29-7. [AMENDED]
- 450:16-29-8. [AMENDED]

**SUMMARY:**

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 16 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, clarify quality of life issues in residential care facilities, delete redundant or superfluous language, and correct scrivener's errors.

**AUTHORITY:**

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

**COMMENT PERIOD:**

Persons wishing to submit written comments may do so until 5:00 p.m., January 2, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13<sup>th</sup> Street, Oklahoma City, or by facsimile, at (405) 522-3867.

**PUBLIC HEARING:**

The Department will conduct a public hearing on January 2, 2004 9:00 a.m. in the Main Conference Room of the Department at the address given above.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

ODMHSAS asks business entities affected by the proposed rules to submit written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., January 2, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 15, 2003. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

**CONTACT PERSON:**

Linda Winton, Policy Analyst and Agency Liaison Officer. (405) 522-6765.

*[OAR Docket #03-3162; filed 11-4-03]*

## Notices of Rulemaking Intent

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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 #03-3163]*

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 1. General Provisions  
450:17-1-2. [AMENDED]  
450:17-1-6. [AMENDED]  
Subchapter 3. Required Services  
Part 1. Required Services  
450:17-3-2. [AMENDED]  
Part 9. Medication Clinic Services  
450:17-3-83. [AMENDED]  
Part 11. Case Management  
450:17-3-101.1. [AMENDED]  
450:17-3-103. [AMENDED]  
Part 13. ODMHSAS Operated Psychiatric Hospitals  
450:17-3-122. [REVOKED]  
Part 15. Adult Day Programs  
450:17-3-141. [AMENDED]  
450:17-3-142. [REVOKED]  
450:17-3-144. [AMENDED]  
450:17-3-144.1. [REVOKED]  
450:17-3-146. [NEW]  
Subchapter 5. Optional Services  
Part 11. Community Living Programs  
450:17-5-56. [AMENDED]  
450:17-5-59.1. [NEW]  
450:17-5-60. [AMENDED]  
450:17-5-61. [AMENDED]  
450:17-5-62. [AMENDED]  
450:17-5-63. [REVOKED]  
450:17-5-64. [AMENDED]  
450:17-5-65. [REVOKED]  
450:17-5-66. [AMENDED]  
450:17-5-67. [AMENDED]  
450:17-5-67.1. [REVOKED]  
450:17-5-67.2. [AMENDED]  
450:17-5-67.3. [AMENDED]  
Part 19. Program for Assertive Community Treatment  
450:17-5-127. [AMENDED]  
Subchapter 7. Facility Clinical Records  
450:17-7-8. [AMENDED]  
Subchapter 11. Consumer Rights  
450:17-11-1. [AMENDED]  
450:17-11-2. [REVOKED]  
450:17-11-3. [AMENDED]  
Subchapter 15. Performance Improvement and Quality  
Management

450:17-15-5. [AMENDED]  
Subchapter 19. Human Resources  
450:17-19-3. [AMENDED]  
Subchapter 23. Facility Environment  
450:17-23-1. [AMENDED]

#### **SUMMARY:**

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 17 are part of the Department's review of Title 450. These actions are intended to comply with statutory changes, amend or repeal rules, delete redundant or superfluous language, and correct scrivener's errors.

#### **AUTHORITY:**

43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315; Board of Mental Health and Substance Abuse Services.

#### **COMMENT PERIOD:**

Persons wishing to submit written comments may do so until 5:00 p.m., January 2, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13<sup>th</sup> Street, Oklahoma City, or by facsimile, at (405) 522-3867.

#### **PUBLIC HEARING:**

The Department will conduct a public hearing on January 2, 2004 10:00 a.m. in the Main Conference Room of the Department at the address given above.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., January 2, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

#### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

#### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 15, 2003. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

#### **CONTACT PERSON:**

Linda Winton, Policy Analyst and Agency Liaison Officer.  
(405) 522-6765.

*[OAR Docket #03-3163; filed 11-4-03]*

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**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES  
CHAPTER 23. STANDARDS AND CRITERIA FOR COMMUNITY-BASED STRUCTURED CRISIS CENTERS**

*[OAR Docket #03-3164]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions
- 450:23-1-2. [AMENDED]
- Subchapter 9. Consumer Rights
- 450:23-9-1. [AMENDED]
- 450:23-9-2. [AMENDED]
- Subchapter 21. Facility Environment
- 450:23-21-1. [AMENDED]
- 450:23 21-3. [NEW]

**SUMMARY:**

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 23 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance service provision, delete redundant or superfluous language, and correct scrivener's errors.

**AUTHORITY:**

43A O.S. §§ 2-101, 2-202, 3-306 and 3-317; Board of Mental Health and Substance Abuse Services.

**COMMENT PERIOD:**

Persons wishing to submit written comments may do so until 5:00 p.m., January 2, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13<sup>th</sup> Street, Oklahoma City, or by facsimile, at (405) 522-3867.

**PUBLIC HEARING:**

The Department will conduct a public hearing on January 2, 2004 11:00 a.m. in the Main Conference Room of the Department at the address given above.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

ODMHSAS asks business entities affected by the proposed rules to submit written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., January 2, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 15, 2003. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

**CONTACT PERSON:**

Linda Winton, Policy Analyst and Agency Liaison Officer. (405) 522-6765.

*[OAR Docket #03-3164; filed 11-4-03]*

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES  
CHAPTER 30. CLINICAL CARE**

*[OAR Docket #03-3165]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 9. Role of State-Operated Inpatient Psychiatric Units
- 450:30-9-3.1. [AMENDED]
- 450:30-9-5. [AMENDED]
- 450:30-9-9. [NEW]
- 450:30-9-10. [NEW]
- 450:30-9-11. [NEW]

**SUMMARY:**

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 30 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance service provision and supervision, delete redundant or superfluous language, and correct scrivener's errors.

**AUTHORITY:**

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-202, 5-301 through 5-311, 9-101 through 9-104.

**COMMENT PERIOD:**

Persons wishing to submit written comments may do so until 5:00 p.m., January 2, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13<sup>th</sup> Street, Oklahoma City, or by facsimile, at (405) 522-3867.

# Notices of Rulemaking Intent

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## **PUBLIC HEARING:**

The Department will conduct a public hearing on January 2, 2004 1:00 p.m. in the Main Conference Room of the Department at the address given above.

## **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

ODMHSAS asks business entities affected by the proposed rules to submit written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., January 2, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

## **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

## **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 15, 2003. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

## **CONTACT PERSON:**

Linda Winton, Policy Analyst and Agency Liaison Officer.  
(405) 522-6765.

*[OAR Docket #03-3165; filed 11-4-03]*

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## **TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES**

### **CHAPTER 50. CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS**

*[OAR Docket #03-3166]*

## **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

## **PROPOSED 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]

450:50-5-9. [NEW]

## **SUMMARY:**

In accordance with the Administrative Procedures Act the proposed permanent 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. Section 3-318 became effective on November 1, 2002 and the Department promulgated emergency 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.

## **AUTHORITY:**

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

## **COMMENT PERIOD:**

Persons wishing to submit written comments may do so until 5:00 p.m., January 2, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13<sup>th</sup> Street, Oklahoma City, or by facsimile, at (405) 522-3867.

## **PUBLIC HEARING:**

The Department will conduct a public hearing on January 2, 2004 2:00 p.m. in the Main Conference Room of the Department at the address given above.

## **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

ODMHSAS asks business entities affected by the proposed rules to submit written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., January 2, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

## **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 15, 2003. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

**CONTACT PERSON:**

Linda Winton, Policy Analyst and Agency Liaison Officer. (405) 522-6765.

*[OAR Docket #03-3166; filed 11-4-03]*

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES  
CHAPTER 55. STANDARDS AND CRITERIA FOR PROGRAMS FOR ASSERTIVE COMMUNITY TREATMENT**

*[OAR Docket #03-3167]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED 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]

**SUMMARY:**

In accordance with the Administrative Procedures Act the proposed permanent 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. Section 3-319 became effective on November 1, 2002 and the Department promulgated emergency rules and standards for certification of facilities or organizations that desire to be certified.

**AUTHORITY:**

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

**COMMENT PERIOD:**

Persons wishing to submit written comments may do so until 5:00 p.m., January 2, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13<sup>th</sup> Street, Oklahoma City, or by facsimile, at (405) 522-3867.

**PUBLIC HEARING:**

The Department will conduct a public hearing on January 2, 2004 3:00 p.m. in the Main Conference Room of the Department at the address given above.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

ODMHSAS asks business entities affected by the proposed rules to submit written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred

## Notices of Rulemaking Intent

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by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., January 2, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning December 15, 2003. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

### CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer.  
(405) 522-6765.

*[OAR Docket #03-3167; filed 11-4-03]*

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### TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 20. ALCOHOL, MIXED BEVERAGES, AND LOW-POINT BEER

*[OAR Docket #03-3197]*

### RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

### PROPOSED RULES:

Subchapter 2. Low-Point Beer [AMENDED]

### SUMMARY:

The amendments to Subchapter 2 are proposed to implement and administer the applicable provisions of law enacted by the 49th Legislature, 1st Regular Session. Laws 2003, Chapter 354, increased statutory fees for retail dealers (low-point beer) permits; Chapter 156, § 2, enacted a new requirement for labeling beer kegs; and Chapter 484, provided, among other things, for permitting certain in-state manufacturers to sell limited quantities of their products from their own retail establishments. Modifications to the existing rules were required to bring them into conformity with these statutes.

### AUTHORITY:

68 O.S. §203; 37 O.S. §§163.18F; Oklahoma Tax Commission

### COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., January 7, 2004, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, at the numbers provided below.

### PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules, **2:00 p.m. January 8, 2004**, at the main offices of the Oklahoma Tax Commission, M. C. Connors Building, Room 1-24, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

### COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

### RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after December 15, 2003, from the same source listed above for obtaining copies of proposed rules.

### CONTACT PERSON:

Carolyn Swifthurst, Agency Liaison. Phone:  
405-521-3133; FAX: 405-522-0063; Email:  
cswifthurst@oktax.state.ok.us

*[OAR Docket #03-3197; filed 11-7-03]*

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### TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 70. TOBACCO AND TOBACCO PRODUCTS

*[OAR Docket #03-3198]*

### RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

### PROPOSED RULES:

Chapter 70. Tobacco and Tobacco Products [AMENDED]

**SUMMARY:**

The rule amendments proposed for Chapter 70 incorporate language to bring the rules into conformity with legislative changes. New Subchapter 2, which deals generally with the administration of Article 3 of Title 68 of the Oklahoma Statutes, has been added to assist the public with the requirements of the Cigarette Stamp Tax law. The new rules shall also implement the provisions of House Bill 1814 of the 49th Legislature, 1st Regular Session, which provided for certain restrictions on license renewals, and defined and clarified the tax status, licensing, and duties of those making "delivery sales" of cigarettes into Oklahoma, including specific recordkeeping and notice requirements.

**AUTHORITY:**

68 O.S. §§ 203, 307, 308, 309, 312, 314, 320, and 322; Oklahoma Tax Commission

**COMMENT PERIOD:**

Persons wishing to make written submissions may do so by 4:30 p.m., January 12, 2004, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, at the numbers provided below.

**PUBLIC HEARING:**

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules, **2:00 p.m. January 13, 2004**, at the main offices of the Oklahoma Tax Commission, M. C. Connors Building, Room 1-24, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

**COPIES OF PROPOSED RULES:**

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

**RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared and will be available for review from and after December 15, 2003, from the same source listed above for obtaining copies of proposed rules.

**CONTACT PERSON:**

Carolyn Swifthurst, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: cswifthurst@.oktax.state.ok.us

*[OAR Docket #03-3198; filed 11-7-03]*

**TITLE 730. DEPARTMENT OF TRANSPORTATION  
CHAPTER 35. MAINTENANCE AND CONTROL OF STATE HIGHWAY SYSTEM**

*[OAR Docket #03-3176]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 5. Highway Advertising Control
- 730:35-5-4. [AMENDED]
- 730:35-5-5. [AMENDED]
- 730:35-5-6. [AMENDED]
- 730:35-5-12. [AMENDED]

**SUMMARY:**

The proposed revisions are necessary to implement changes in 69 O.S. § 1275 which were enacted by Senate Bill 317, effective July 1, 2003. Additionally, fee increases were agreed to by the Oklahoma Outdoor Advertising Association in order to offset the cost of administration of the program. The proposed fees are \$150.00 for each new application, and \$50.00 permitting fee every two years. The current fees are \$100.00 for each new application and \$20.00 permitting fee every two years.

**AUTHORITY:**

Oklahoma Department of Transportation; 69 O.S., §§ 303 and 304.

**COMMENT PERIOD:**

Persons may submit written or oral comments to Mike Mayberry at the Oklahoma Department of Transportation, 200 N.E. 21<sup>st</sup> Street, Room 3A2, Oklahoma City, OK 73105 during the period from December 1, 2003 to December 31, 2003.

**PUBLIC HEARING:**

A public hearing will be held at 10:00 am, Wednesday, December 31, 2003 in the Oklahoma Department of Transportation Commission Room, 200 N.E. 21<sup>st</sup> Street, Oklahoma City, OK 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred

## Notices of Rulemaking Intent

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by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing from December 1, 2003 through December 30, 2003 at the Oklahoma Department of Transportation, 200 N.E. 21<sup>st</sup> Street, Room 3A2, Oklahoma City, OK 73105, Attn: Mike Mayberry.

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the Oklahoma Department of Transportation, 200 N.E. 21<sup>st</sup> Street, Room 3A2, Oklahoma City, OK 73105. Electronic copies may also be obtained by sending a request to: mbrewington@odot.org

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared prior to December 15, 2003 at the same location listed above for obtaining copies.

### CONTACT PERSON:

Michael E. Mayberry, Assistant Director - Administration, (405) 522-6002.

*[OAR Docket #03-3176; filed 11-5-03]*

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### TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 45. PUBLIC TRANSPORTATION PROJECT DEVELOPMENT ASSISTANCE

*[OAR Docket #03-3175]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

730:45-1-2. [AMENDED]

### SUMMARY:

The proposed revision will streamline the distribution of federal funds appropriated in Section 5307 (public transportation grants) by specifying Lawton Transit Trust and University of Oklahoma as direct grant recipients. Letters on file from the City of Lawton and the City of Norman reflect positive support of this proposal.

### AUTHORITY:

Oklahoma Department of Transportation; 69 O.S., §§4002 and 4005.

### COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by December 31, 2003 before 4:00 p.m. at the Oklahoma Department of Transportation, Assistant Director of Administration Office, 200 N.E. 21<sup>st</sup> Street, Room 3A2, Oklahoma City, OK 73105.

### PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303 (B) (9), "persons may demand a hearing" by contacting Michael E. Mayberry, Assistant Director - Administration, (405) 522-6002, no later than 4:00 p.m. on December 31, 2003.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Department of Transportation, Office - Administrative Assistant Director, 200 N.E. 21<sup>st</sup> Street, Room 3A2, Oklahoma City, OK 73105.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared prior to December 15, 2003.

### CONTACT PERSON:

Michael E. Mayberry, Assistant Director - Administration, (405) 522-6002.

*[OAR Docket #03-3175; filed 11-5-03]*

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### TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 10. SPORT FISHING RULES

*[OAR Docket #03-3169]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Chapter 10. Sport Fishing Rules [AMENDED]

### SUMMARY:

The proposed rule amendments will increase the Lake Texoma annual fishing license currently in emergency status effective January 1, 2004; define filleted fish rule; change length limits of sauger; open bowfishing on Department lakes; amend language on Close To Home fishing; clarify language and provide fishing opportunity.

### AUTHORITY:

Title 29 O.S., Sections 3-103, 5-401, 4-128C (HB 1663), 6-302; Article XXVI, Sections 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

### COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 16, 2004, at the following address: Oklahoma Department of Wildlife Conservation, Room 219, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

### PUBLIC HEARINGS:

Date: January 12, 2004

Time: 7:00pm

Place: **Oklahoma City** - Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., OKC

**Tulsa** - Tulsa Technology Center, 801 E. 91<sup>st</sup> Street, Alliance Bldg, Rm. 144, Tulsa

**Durant** - Durant Fish Hatchery, 2021 Caddo Highway, Caddo

**Woodward** - Oklahoma Department of Wildlife Conservation, 3014 Lakeview Dr., Woodward

**Broken Bow** - Broken Bow Public Library, 404 N. Broadway, Broken Bow

Date: January 13, 2004

Time: 7:00pm

Place: **Muskogee** - Muskogee Library, 801 W. Okmulgee, Rm. A, Muskogee

**Lawton** - Lawton Public Library, 110 SW 4<sup>th</sup> Street, Rm. 1, Lawton

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room 219.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 9, 2003 at the above address for the Oklahoma Department of Wildlife Conservation.

**CONTACT PERSON:**

Kim Erickson, Chief of Wildlife Division, 405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

*[OAR Docket #03-3169; filed 11-5-03]*

**TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION  
CHAPTER 20. NUISANCE AQUATIC SPECIES**

*[OAR Docket #03-3170]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 20. Nuisance Aquatic Species [AMENDED]

**SUMMARY:**

The proposed rule will designate waters where the Oklahoma Department of Wildlife Conservation controls stocking and establish protocol on how determination is made.

**AUTHORITY:**

Title 29 O.S., Sections 3-103, 5-401, 6-302; 7-503, Article XXVI, Sections 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

**COMMENT PERIOD:**

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 16, 2004, at the following address: Oklahoma Department of Wildlife Conservation, Room 219, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

**PUBLIC HEARINGS:**

Date: January 12, 2004

Time: 7:00pm

Place: **Oklahoma City** - Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., OKC

**Tulsa** - Tulsa Technology Center, 801 E. 91<sup>st</sup> Street, Alliance Bldg, Rm. 144, Tulsa

**Durant** - Durant Fish Hatchery, 2021 Caddo Highway, Caddo

**Woodward** - Oklahoma Department of Wildlife Conservation, 3014 Lakeview Dr., Woodward

**Broken Bow** - Broken Bow Public Library, 404 N. Broadway, Broken Bow

Date: January 13, 2004

Time: 7:00pm

Place: **Muskogee** - Muskogee Library, 801 W. Okmulgee, Rm. A, Muskogee

**Lawton** - Lawton Public Library, 110 SW 4<sup>th</sup> Street, Rm. 1, Lawton

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room 219.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 9, 2003 at the above address for the Oklahoma Department of Wildlife Conservation.

**CONTACT PERSON:**

Kim Erickson, Chief of Wildlife Division, 405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

*[OAR Docket #03-3170; filed 11-5-03]*

**TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION  
CHAPTER 25. WILDLIFE RULES**

*[OAR Docket #03-3171]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 25. Wildlife Rules [AMENDED]

**SUMMARY:**

The proposed rule amendments are designed to better manage the various wildlife species, increase hunting opportunity, expand spring turkey hunting in southeast Oklahoma; provide for fee increases authorized by HB 1663, HB 1419 and SB 360 and improve hunter safety.

**AUTHORITY:**

Title 29 O.S., Sections 3-103, 5-401; HB 1663, HB 1419 and SB 360; Article XXVI, Sections 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

## Notices of Rulemaking Intent

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### COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 16, 2004, at the following address: Oklahoma Department of Wildlife Conservation, Room 219, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

### PUBLIC HEARINGS:

Date: January 12, 2004

Time: 7:00pm

Place: **Idabel**-Kiamichi Technology Center, Highway 259 North, Idabel

**Oklahoma City** - Department of Wildlife Auditorium, 1801 N. Lincoln, OKC

**Okmulgee** - East Central Electric Coop Building on Hwy 75 South, Okmulgee

**Ada** - Pontotoc County Technology Center, 601 W. 33<sup>rd</sup>, Ada

Date: January 13, 2004

Time: 7:00pm

Place: **Tulsa** - Broken Arrow Technology Center, E Base Room, 4600 S. Olive, 129<sup>th</sup> E. Ave. and 11<sup>th</sup> Street, Tulsa

**Altus** - Altus Public Library, 421 N. Hudson, Altus

Date: January 15, 2004

Time: 7:00pm

Place: **Lawton** - Lawton Public Library, 110 SW 45th

**Poteau** - Kiamichi Technology Center, 1509 South McKenna, Poteau

**Woodward** - Northwest Electric, 2925 Williams Ave., Woodward

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

### COPIES OF PROPOSED RULES:

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room 219.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 9, 2003 at the above address for the Oklahoma Department of Wildlife Conservation.

### CONTACT PERSON:

Alan Peoples, Chief of Wildlife Division, 405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

*[OAR Docket #03-3171; filed 11-5-03]*

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## TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 25. WILDLIFE RULES

*[OAR Docket #03-3172]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Chapter 25. Wildlife Rules [AMENDED]

### SUMMARY:

The proposed rule amendments are to establish procedures for sale of special hunting permits authorized in Title 29 and currently in Department procedures; clarify wording and correct various housekeeping items.

### AUTHORITY:

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

### COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 16, 2004, at the following address: Oklahoma Department of Wildlife Conservation, Room 219, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

### PUBLIC HEARINGS:

A public hearing has not been scheduled, however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Alan Peoples, Chief of Wildlife Division, at the above address or by calling 405/521-2739 no later than 4:30 p.m. January 16, 2003.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

### COPIES OF PROPOSED RULES:

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room 219.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 9, 2003 at the above address for the Oklahoma Department of Wildlife Conservation.

### CONTACT PERSON:

Alan Peoples, Chief of Wildlife Division, 405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

*[OAR Docket #03-3172; filed 11-5-03]*

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

*[OAR Docket #03-3173]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Chapter 30. Department of Wildlife Lands Management [AMENDED]

### SUMMARY:

The proposed rule amendments are to clarify wording and correct various housekeeping items.

**AUTHORITY:**

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

**COMMENT PERIOD:**

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 16, 2004, at the following address: Oklahoma Department of Wildlife Conservation, Room 219, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

**PUBLIC HEARINGS:**

A public hearing has not been scheduled, however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Alan Peoples, Chief of Wildlife Division, at the above address or by calling 405/521-2739 no later than 4:30 p.m. January 16, 2004.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room 219.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 9, 2003 at the above address for the Oklahoma Department of Wildlife Conservation.

**CONTACT PERSON:**

Alan Peoples, Chief of Wildlife Division, 405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

*[OAR Docket #03-3173; filed 11-5-03]*

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

*[OAR Docket #03-3174]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 30. Department of Wildlife Lands Management [AMENDED]

**SUMMARY:**

The proposed rule amendments are designed to better manage the various wildlife species, limit hunting of feral hogs on Honobia, Three Rivers and Broken Bow Wildlife Management Areas to the first nine days of the regular deer gun season and improve hunter safety.

**AUTHORITY:**

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

**COMMENT PERIOD:**

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 16, 2004, at the following address: Oklahoma Department of Wildlife Conservation, Room 219, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

**PUBLIC HEARINGS:**

Date: January 12, 2004

Time: 7:00pm

Place: **Idabel**-Kiamichi Technology Center, Highway 259 North, Idabel

**Oklahoma City** - Department of Wildlife Auditorium, 1801 N. Lincoln, OKC

**Okmulgee** - East Central Electric Coop Building on Hwy 75 South, Okmulgee

**Ada** - Pontotoc County Technology Center, 601 W. 33<sup>rd</sup>, Ada

Date: January 13, 2004

Time: 7:00pm

Place: **Tulsa** - Broken Arrow Technology Center, E Base Room, 4600 S. Olive, 129<sup>th</sup> E. Ave. and 11<sup>th</sup> Street, Tulsa

**Altus** - Altus Public Library, 421 N. Hudson, Altus

Date: January 15, 2004

Time: 7:00pm

Place: **Lawton** - Lawton Public Library, 110 SW 45th

**Poteau** - Kiamichi Technology Center, 1509 South McKenna, Poteau

**Woodward** - Northwest Electric, 2925 Williams Ave., Woodward

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room 219.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after December 9, 2003 at the above address for the Oklahoma Department of Wildlife Conservation.

**CONTACT PERSON:**

Alan Peoples, Chief of Wildlife Division, 405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

*[OAR Docket #03-3174; filed 11-5-03]*



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# 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.*

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

*[OAR Docket #03-3182]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 9. Administrative Proceedings

Part 5. Air Quality Advisory Council Hearings

252:4-9-51. In general [AMENDED]

252:4-9-52. Individual proceedings [AMENDED]

**GUBERNATORIAL APPROVAL:**

October 27, 2003

*[OAR Docket #03-3182; filed 11-7-03]*

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

*[OAR Docket #03-3183]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]  
252:100-33-1.2. Applicability [AMENDED]  
**GUBERNATORIAL APPROVAL:**  
October 27, 2003

*[OAR Docket #03-3183; filed 11-7-03]*

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**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION  
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #03-3161]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 13. Minority Teacher Recruitment Center [NEW]

610:1-13-1. Purpose [NEW]

610:1-13-2. Minority Teacher Recruitment Advisory Committee [NEW]

610:1-13-3. Programs and Services [NEW]

**GUBERNATORIAL APPROVAL:**

October 27, 2003

*[OAR Docket #03-3161; filed 11-3-03]*

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# Emergency Adoptions

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

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

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

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

## **TITLE 365. INSURANCE DEPARTMENT** **CHAPTER 40. HEALTH MAINTENANCE** **ORGANIZATIONS (HMO)**

*[OAR Docket #03-3160]*

### **RULEMAKING ACTION:**

EMERGENCY adoption

### **RULES:**

Subchapter 1. General Provisions [NEW]  
365:40-1-1. Purpose [NEW]  
365:40-1-2. Definitions [NEW]  
365:40-1-3. Medicaid HMOs [NEW]  
365:40-1-4. Severability provision [NEW]  
Subchapter 3. Financial [NEW]  
Part 1. HMO Forms and instructions [NEW]  
365:40-3-1. Licensure forms [NEW]  
365:40-3-2. Deposit of securities forms [NEW]  
Part 3. Holding Company System [NEW]  
365:40-3-10. Definitions [NEW]  
365:40-3-11. Compliance with Article 16A of Title 36 [NEW]  
365:40-3-12. Annual Registration Statements [NEW]  
365:40-3-13. Transactions with affiliates [NEW]  
365:40-3-14. Prior approval pursuant to 36 O.S. § 6903(C) [NEW]  
365:40-3-15. Notice of amendments or modifications pursuant to 36 O.S. § 6903(C) [NEW]  
365:40-3-16. Redomestication [NEW]  
365:40-3-17. Forms: general requirements [NEW]  
365:40-3-18. Forms: incorporation by reference, summaries and omissions [NEW]  
365:40-3-19. Acquisition of control; statement filing (HMO Form A) [NEW]  
365:40-3-20. Pre-acquisition notification [NEW]  
365:40-3-21. Annual registration of HMOs; statement filing (HMO Form B) [NEW]  
365:40-3-22. Dividend to stockholders [NEW]  
365:40-3-23. Extraordinary dividends and other distributions [NEW]  
365:40-3-24. Adequacy of surplus [NEW]  
365:40-3-25. Failure to file [NEW]  
Part 5. Miscellaneous [NEW]  
365:40-3-30. Liabilities [NEW]  
365:40-3-31. Name of HMO [NEW]  
365:40-3-32. Standards for determining hazardous financial condition [NEW]  
365:40-3-33. Commissioner's authority [NEW]  
Subchapter 5. Life, Accident & Health Division and Claims and Consumer Assistance Division Rules [NEW]  
Part 1. General Provisions [NEW]  
365:40-5-1. Definitions [NEW]  
Part 3. Rating System [NEW]  
365:40-5-10. Definitions [NEW]  
365:40-5-11. Community rating [NEW]  
365:40-5-12. Community rating by class [NEW]  
365:40-5-13. Adjusted community rating [NEW]  
365:40-5-14. Rates to reflect risk-sharing arrangements [NEW]  
Part 5. Basic And Supplemental Health Care Services [NEW]

365:40-5-20. Basic health care services [NEW]  
365:40-5-21. Supplemental health care services [NEW]  
365:40-5-22. Benefit changes [NEW]  
365:40-5-23. Identification cards [NEW]  
Part 7. Point Of Service Option [NEW]  
365:40-5-30. Definitions [NEW]  
365:40-5-31. Purpose/scope [NEW]  
365:40-5-32. Responsibilities of the HMO [NEW]  
Part 9. HMO Requirements And Prohibitions [NEW]  
365:40-5-40. Services to members [NEW]  
365:40-5-41. Membership [NEW]  
365:40-5-42. Individual conversion contracts [NEW]  
365:40-5-43. Premiums/co-payments [NEW]  
365:40-5-44. Internal grievance system [NEW]  
365:40-5-45. Guaranteed renewal [NEW]  
365:40-5-46. Small group offering [NEW]  
365:40-5-47. Special enrollment periods [NEW]  
Part 11. Coordination Of Benefits [NEW]  
365:40-5-50. Purpose [NEW]  
365:40-5-51. Definitions [NEW]  
365:40-5-52. Effect on benefits [NEW]  
365:40-5-53. Right to receive and release necessary information [NEW]  
365:40-5-54. Benefit payments [NEW]  
365:40-5-55. Subrogation [NEW]  
365:40-5-56. Small claim waivers [NEW]  
365:40-5-57. Public education [NEW]  
365:40-5-58. Retroactivity [NEW]  
365:40-5-59. Facility of payment [NEW]  
365:40-5-60. Right of recovery [NEW]  
Part 13. Termination Of Members, Providers and Continuation of Benefits [NEW]  
365:40-5-70. Termination of group or individual contracts [NEW]  
365:40-5-71. Termination of providers [NEW]  
365:40-5-72. Continuation of benefits [NEW]  
365:40-5-73. Disenrollment for cause [NEW]  
365:40-5-74. Certification of creditable coverage [NEW]  
Part 15. Discontinuation of HMO [NEW]  
365:40-5-80. Notice [NEW]  
365:40-5-81. Individual market [NEW]  
365:40-5-82. Group market [NEW]  
365:40-5-83. Market reentry [NEW]  
Part 17. Confidentiality of Medical Information and Liability [NEW]  
365:40-5-90. Responsibility of HMO [NEW]  
Part 19. Request For Assistance and Prompt Pay Form [NEW]  
365:40-5-100. Request for assistance [NEW]  
365:40-5-101. Prompt Pay Form and Requirements [NEW]  
Part 21. Geographic Service Area Variations [NEW]  
365:40-5-110. Accessibility of providers [NEW]  
365:40-5-111. Marketing and enrolling [NEW]  
365:40-5-112. Geographic area filings [NEW]  
Part 23. Reimbursement of Claims [NEW]  
365:40-5-120. Purpose [NEW]  
365:40-5-121. Requirement to reimburse claims for point of service [NEW]  
365:40-5-122. Responsibilities [NEW]  
365:40-5-123. Reimbursement criteria [NEW]  
310:40-5-124. Claims payment report [NEW]

# Emergency Adoptions

- 365:40-5-125. Elements of a clean claim [NEW]
- 365:40-5-126. Disclosure requirements [NEW]
- 365:40-5-127. Disclosure of processing procedures [NEW]
- 365:40-5-128. Failure to promptly pay [NEW]
- 365:40-5-129. Date of claim receipt [NEW]
- 365:40-5-130. Terms of contracts [NEW]
- 365:40-Appendix A. HMO Form A [NEW]
- 365:40-Appendix B. HMO Form B [NEW]
- 365:40-Appendix C. HMO Form C [NEW]
- 365:40-Appendix D. HMO Form D [NEW]
- 365:40-Appendix E. HMO Form E [NEW]
- 365:40-Appendix F. HMO Form R [NEW]
- 365:40-Appendix G. Prompt Pay Form [NEW]

## **AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1 and 6923

## **DATES:**

### **Adoption:**

September 11, 2003

### **Approved by Governor:**

October 28, 2003

### **Effective:**

November 1, 2003

### **Expiration:**

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

## **SUPERSEDED EMERGENCY RULES:**

n/a

## **INCORPORATION BY REFERENCE:**

n/a

## **FINDING OF EMERGENCY:**

An imminent peril exists to the preservation of the public health, safety, and welfare, and a compelling public interest requires emergency rules due to the necessity of providing for licensing and regulation of HMOs pursuant to Senate Bill 635 which is effective November 1, 2003.

## **ANALYSIS:**

The proposed new rules set forth the requirements for licensing and regulation of Health Maintenance Organizations pursuant to Senate Bill 635 which is effective November 1, 2003.

## **CONTACT PERSON:**

Karl Kramer, Oklahoma Insurance Department, (405) 521-2746

**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), WITH A LATER EFFECTIVE DATE OF NOVEMBER 1, 2003:**

## **SUBCHAPTER 1. GENERAL PROVISIONS**

### **365:40-1-1. Purpose**

This regulation provides rules administering the Health Maintenance Organizations Act of 2003, 36 O.S. § 6901, et seq., and related provisions of the Oklahoma Insurance Code.

### **365:40-1-2. Definitions**

As used in this Chapter, unless the context requires otherwise:

"Alien HMO" means an HMO formed under the laws of a country other than the United States, except that for purposes of the Holding Company Act, alien HMO have the same meaning as foreign HMO.

"Department" means the Oklahoma Insurance Department pursuant to Title 36 of the Oklahoma Statutes.

"Domestic HMO" means an HMO formed under the laws of Oklahoma.

"Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

"Foreign HMO" means an HMO formed under the laws of another state, commonwealth, territory, or district of the United States.

"HMO Act" means the Health Maintenance Organization Act of 2003 as amended, 36 O.S. § 6901, et seq.

"Health Maintenance Organization" (HMO) has the meaning as defined at 36 O.S. § 6902, and, for purposes of this regulation, any reference to the terms insurer, insurance company or company in this regulation, in statutes referenced by this regulation or in statutes referenced in the HMO Act also includes health maintenance organizations.

"Holding Company Act" means the Insurance Holding Company System Regulatory Act, 36 O.S. § 1651, et seq.

"NAIC" means the National Association of Insurance Commissioners.

"Ultimate controlling person" means that person which is not controlled by any other person.

### **365:40-1-3. Medicaid HMOs**

Domestic health maintenance organizations that contract with the Oklahoma Health Care Authority to provide basic health care services to Medicaid recipients and do not provide basic health care services to any other group of persons shall be exempt from compliance with O.A.C. 365:40-3-2 and 365:40-5-44 of this Chapter.

### **365:40-1-4. Severability provision**

If any provision of this regulation, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this regulation, which can be given effect without the invalid provision, or application, and to that end the provisions of this regulation are severable.

## **SUBCHAPTER 3. FINANCIAL**

### **PART 1. HMO FORMS AND INSTRUCTIONS**

#### **365:40-3-1. Licensure forms**

(a) Certificate of authority form. The certificate of authority form, executed under the hand and seal of the Insurance Commissioner and delivered, is evidence of an HMO's authority to transact business within Oklahoma.

(b) Annual statement form. Annual statement forms must be filed by all admitted companies and postmarked on or before the first day of March of each year, reporting their business and financial condition as of December 31st of the preceding year. The completed forms must be subscribed and sworn to by

the President, Secretary and other proper officers of the company. The Annual Statement is referred to as the "Convention Blank" and is in the general form and content approved by the National Association of Insurance Commissioners. The statements shall be prepared in accordance with the NAIC annual statement instruction handbooks and follow the NAIC accounting practices and procedures manuals as supplemented by the Insurance Commissioner by rule.

(c) **Quarterly statement form.** Quarterly statement forms must be filed by all domestic HMOs and postmarked on or before the forty-fifth day after the end of the reporting period of each year, reporting their business and financial condition as of March 31st, June 30th, and September 30th respectively. The completed forms must be subscribed and sworn to by the President, Secretary, and other proper executive officers of the company.

(d) **Uniform Consent To Service of Process form.** All companies must file the Uniform Consent to Service of Process form of the NAIC listing the person to whom service of process is to be forwarded. The appointment of Insurance Commissioner as attorney for service of process form for the State of Oklahoma must be filed by all licensed alien and foreign HMOs using the Uniform Consent to Service of Process form of the NAIC and shall continue in force so long as any liability remains outstanding in Oklahoma against the filing company as required by 36 O.S. § 6903.

(e) **Uniform Certificate of Authority Application form (UCAA).** All companies desiring admission or renewal licensure within Oklahoma shall submit the Uniform Certificate of Authority Application form of the NAIC (UCAA). A company agrees by its execution of such form to transact business, upon issuance of license, in accordance with the laws of Oklahoma, and to pay all fees and taxes as may at any time be imposed by law.

(1) Applicants shall submit three (3) copies of the form and its exhibits and/or attachments as well as any accompanying forms.

(2) State specific information required by the UCAA form shall include applicable items listed in 36 O.S. § 6903(C) and documentation to demonstrate compliance with 36 O.S. § 6907.

(f) **Certificate of similarity form.** All alien and foreign HMOs must execute the certificate of similarity form and such form must be attached to the Annual Statement filed with the Insurance Commissioner. This form certifies that the Annual Statement filed with Oklahoma is an exact copy of the annual statement filed with the domiciliary regulatory agency.

(g) **Certificate of deposit form.** The certificate of deposit form, when executed by the Insurance Commissioner, certifies to the securities on deposit with the State of Oklahoma. Upon making application for license in Oklahoma, all alien and foreign HMOs must file a substantially similar form executed by their domiciliary regulatory agency.

(h) **Certificate of compliance form.** The certificate of compliance form, when executed by the Insurance Commissioner, certifies that the company named therein has complied with all the requirements of the Oklahoma law and is authorized to

transact business within Oklahoma. Upon making application for license in Oklahoma, all alien and foreign HMOs must file a substantially similar form executed by their domiciliary regulatory agency.

(i) **Annual Oklahoma premium tax report.** The Oklahoma annual premium tax report, submitted with the Annual Statement filed with the Insurance Commissioner, reports Oklahoma tax on premium income of the filing HMO, and includes fire marshal tax calculations if applicable.

(j) **Appointment of examiner form.** The appointment of examiner form is used by the Insurance Commissioner to appoint examiners to represent Oklahoma and/or Zone 3 of the National Association of Insurance Commissioners in the examination of an HMO, which empowers the person so appointed to enter into the examination of the HMO named therein.

### **365:40-3-2. Deposit of securities forms**

(a) **Deposit form.** The deposit form is used by all companies depositing securities with the Insurance Department to be held by the State Treasurer's Office. A description of the securities and value must be itemized on this form and said form must accompany securities being deposited when presented to the Insurance Commissioner for approval. After completion of transaction, a copy of this form is sent to said company for use to obtain release of deposited securities. Prior to the withdrawal of said securities, the deposit form must be executed by a company official authorized to make such withdrawals and presented to the Insurance Commissioner for approval.

(b) **Deposits in the name of Insurance Commissioner and HMO.** Deposits with the Insurance Commissioner made pursuant to 36 O.S. § 6913(B) shall be in the name of the Insurance Commissioner and the HMO making the deposit, and shall not be released by any company holding such security without the signatures of the Insurance Commissioner and the personnel of the authorized HMO. The deposit shall be held by the State Treasurer of Oklahoma unless the Insurance Commissioner approves, pursuant to 36 O.S. § 6913(B), the holding of said deposit by an organization or trustee acceptable to the Insurance Commissioner through which a custodial or controlled account is utilized.

(c) **Resolution form.** Each company having securities on deposit with the Insurance Department must adopt a resolution and file it with the Insurance Commissioner's Office, authorizing and empowering certain persons designated by said company to deal with the securities on deposit. Requests for exchange or withdrawal of deposited securities will not be honored unless made by designated persons.

## **PART 3. HOLDING COMPANY SYSTEM**

### **365:40-3-10. Definitions**

Unless the context otherwise requires, terms found in this subsection shall have the same meaning as defined in Section 1651 of Title 36.

## Emergency Adoptions

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### **365:40-3-11. Compliance with Article 16A of Title 36**

Definitions of terms found in Section 1651 of Title 36 shall apply when an HMO is seeking to comply with Article 16A of the Oklahoma Insurance Code pursuant to Section 6930 of Title 36. For purposes of this section, the definition of the term insurer as set out in Section 1651 of Title 36 shall include HMOs.

### **365:40-3-12. Annual Registration Statements**

(a) **Registration.** Every HMO which is authorized to do business in this state and every individual who controls an HMO shall annually register with the Insurance Commissioner, except a foreign HMO subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section. Any HMO, which is subject to registration under this section, shall register thirty (30) days after it becomes subject to registration, unless the Insurance Commissioner for good cause shown extends the time for registration, and then within such extended time.

(b) **Information and Form Required.** Every HMO subject to registration shall file a registration statement on a form prescribed by the National Association of Insurance Commissioners, which shall contain current information about:

(1) the capital structure, general financial condition, ownership and management of the HMO and any person controlling the HMO;

(2) the identity and relationship of every member of the insurance holding company system;

(3) the following agreements in force, relationships subsisting, and transactions currently outstanding or which have occurred during the previous calendar year between such HMO and its affiliates:

(A) loans, other investments or purchases, sales or exchanges of securities of the affiliates by the HMO or of the HMO by its affiliates;

(B) purchases, sales or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the HMO's assets to liability, other contracts for health care services entered into in the ordinary course of the HMO's business);

(E) all management and service contracts and all cost-sharing arrangements;

(F) reinsurance agreements;

(G) dividends and other distributions to shareholders; and

(H) consolidated tax allocation agreements.

(4) other matters concerning transactions between registered HMOs and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner; and

(5) any pledge of the HMO's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

(c) **Materiality.** No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not material for the purposes of this section. Unless the Commissioner by rule, regulation or order provides otherwise, sales purchases, exchanges, loans or extensions of credit, or investments, involving one-half of one percent (1/2 of 1%) or less of an HMO's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section.

(d) **Amendments to Registration Statements.** Each registered HMO shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the Commissioner within fifteen (15) days after the end of the month in which it learns of each such change or addition, provided, however, that subject to subsection (c) of Section 365:40-3-13 of this regulation, each registered HMO shall so report all dividends and other distributions to shareholders within two (2) business days following the declaration thereof.

(e) **Termination of Registration.** The Insurance Commissioner shall terminate the registration of any HMO that demonstrates that it no longer is a member of an insurance holding company system.

(f) **Consolidated Filing.** The Insurance Commissioner may require two or more affiliated HMOs or insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement, so long as such consolidated filings correctly reflect the condition of and transactions between such persons.

(g) **Alternative Registration.** The Insurance Commissioner may allow an HMO which is authorized to do business in this state and which is a part of an insurance holding company system to register on behalf of any affiliated HMO which is required to register under subsection (a) and to file all information and material required to be filed pursuant to this Part.

(h) **Exemptions.** The provisions of this section shall not apply to any HMO, information or transaction if and to the extent that the Commissioner by rule, regulation, or order shall exempt the same from the provisions of this section.

(i) **Disclaimer.** Any person may file with the Commissioner a disclaimer of affiliation with any authorized HMO or such a disclaimer may be filed by such HMO or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such HMO as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the HMO shall be relieved of any duty to register or report under this section which may arise out of the HMO's relationship with such person unless and until the Commissioner disallows such a disclaimer. The Commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance. The filing of a disclaimer of affiliation shall not relieve a person from compliance with the requirements of 36 O.S. § 1653 or 6930.

(j) **Summary of Registration Statement.** All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(k) **Reporting Dividends to Shareholders.** Every domestic HMO that is a member of a holding company system shall report to the Insurance Department all dividends to shareholders within five (5) business days following declaration and at least ten (10) days, commencing from date of receipt by the Department, prior to payment thereof.

(l) **Information of HMOs.** Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an HMO where such information is reasonably necessary to enable the HMO to comply with the provisions of this article.

(m) **Violations.** The failure to file a registration statement, any summary of the registration statement thereto, or any additional information required by this section within the time specified for such filing shall be a violation of this section.

### **365:40-3-13. Transactions with Affiliates**

(a) **Material transactions.** The board of directors will be charged with exercising that degree of care that a prudent person would have exercised under similar circumstances. Material transactions shall be subject to the following standards:

- (1) the terms shall be fair and reasonable;
- (2) the books, accounts and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transaction; and
- (3) the HMO's capital and surplus following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the HMO's outstanding liabilities and adequate to its financial needs.

(b) **Insurance Commissioner's Approval Required.**

(1) The prior written approval of the Insurance Commissioner shall be required for the following transactions between a domestic HMO and its affiliates: sales, guarantees, purchases, exchanges, loans or extensions of credit or investments which, based upon an annual aggregate, involve more than five percent (5%) of the HMO's admitted assets or twenty-five percent (25%) of the HMO's capital and surplus, whichever is less, as of the latest statutory financial statement filed with the Insurance Commissioner; provided, however, that the Insurance Commissioner must either approve or disapprove within thirty (30) days after receiving written notification from the HMO of the proposed transaction and failure to disapprove the proposed transaction within thirty (30) days shall constitute approval of the transaction;

(2) The prior written approval of the Insurance Commissioner shall be required for any transactions between a domestic HMO and its affiliates where the HMO is found by the Insurance Commissioner to be in unsound condition or in such condition as to render its further transaction of business in Oklahoma hazardous to its enrollees, members, subscribers or to the people of Oklahoma; provided, however, that the Insurance Commissioner must either approve or disapprove within ninety (90) days after written

notification by the HMO and failure to disapprove the proposed transaction within ninety (90) days shall constitute approval of the transaction;

(3) The following transactions involving a domestic HMO and any person in its holding company system may not be entered into unless the HMO has notified the Insurance Commissioner in writing of its intention to enter into such transaction at least thirty (30) days prior thereto, or such shorter period as the Insurance Commissioner may permit, and the Insurance Commissioner has not disapproved it within such period.

(A) loans or extensions of credit to any person who is not an affiliate, where the HMO makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the HMO making such loans or extensions of credit provided such transactions are equal to or exceed the lesser of three percent (3%) of the HMO's admitted assets or twenty-five percent (25%) of capital and surplus;

(B) reinsurance agreements or modifications thereto in which the reinsurance premium or a change in the HMO's liabilities equals or exceeds five percent (5%) of the HMO's capital and surplus as of the 31st day of December next preceding, including those agreements which may require as consideration the transfer of assets from an HMO to a nonaffiliate, if an agreement or understanding exists between the HMO and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the HMO;

(C) all management agreements, service contracts and all cost-sharing arrangements;

(c) **Approvals granted under other sections.** Nothing in this section shall supersede approvals granted under other sections of this title or transactions occurring prior to the effective date of this section.

(d) **Adequacy of Surplus.** For purposes of Article 16A of the Oklahoma Insurance Code and this subsection, in determining whether an HMO's capital and surplus is reasonable in relation to the HMO's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) the size of the HMO as measured by its assets, capital and surplus, reserves, premium writing, insurance in force and other appropriate criteria;

(2) the extent to which the HMO's business is diversified among the several lines of insurance;

(3) the number and size of risks in each line of business;

(4) the extent of the geographical dispersion of the HMO's risks;

(5) the nature and extent of the HMO's reinsurance program;

(6) the quality, diversification, and liquidity of the HMO's investment portfolio;

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(7) the recent past and projected future trend in the size of the HMO's investment portfolio;

(8) the capital and surplus maintained by other comparable HMOs;

(9) the adequacy of the HMO's reserves;

(10) the quality and liquidity of investments in subsidiaries. The Insurance Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of capital and surplus whenever in his judgment such investment so warrants; and

(11) the quality of the HMO's earnings and the extent to which the reported earnings include extraordinary items.

(e) **Dividends and Other Distributions.** No HMO shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty (30) days after the Commissioner has received notice of the declaration thereof and has not within such period disapproved such payment, or the Insurance Commissioner shall have approved such payment within such thirty-day period.

(1) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of

(A) ten percent (10%) of such HMO's capital and surplus as of the 31st day of December next preceding, or

(B) the net underwriting gain for the twelve-month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the HMO's own securities.

(2) Notwithstanding any other provision of law, an HMO may declare an extraordinary dividend or distribution which is conditional upon the Insurance Commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until

(A) the Insurance Commissioner has approved the payment of such dividend or distribution or

(B) the Insurance Commissioner has not disapproved such payment within the thirty-day period referred to above.

### **365:40-3-14. Prior approval pursuant to 36 O.S. § 6903(C)**

Pursuant to 36 O.S. § 6903(D), the prior written approval of the Insurance Commissioner shall be required for amendments or modifications to items required by 36 O.S. § 6903(C)(4), (5), (6), and (11). Requests for prior written approval shall be made on Form D as set forth in Appendix D of this Chapter. Pursuant to O.A.C. 365:40-3-12, an Amended Registration Statement (Form B) shall be filed for all items approved by the Insurance Commissioner.

### **365:40-3-15. Notice of amendments or modifications pursuant to 36 O.S. § 6903(C)**

Pursuant to 36 O.S. § 6903(D), amendments or modifications to the items required by 36 O.S. § 6903(C)(1), (2), (3),

(7), (8), (9), (10), (12), (13) and (14) shall be included in the Amendments to Registration Statements and shall be made on Form B as set forth in Appendix B of this Chapter.

### **365:40-3-16. Redomestication**

(a) Any HMO which is organized under the laws of any other state and is admitted to do business in this state for the purpose of transacting business of a health maintenance organization may become a domestic HMO by complying with all of the requirements of law relative to the organization and licensing of a domestic HMO and by designating its principal place of business at a location in this state. Said domestic HMO will be entitled to like certificates and licenses to transact business in this state and shall be subject to the authority and jurisdiction of this state.

(1) The Insurance Commissioner shall approve an HMO's application to redomesticate unless he finds that:

(A) the HMO cannot comply with all the requirements of law relative to the organization and licensing of a domestic HMO,

(B) after redomestication, the HMO would not be able to satisfy the requirements for the issuance of a license to conduct business as an HMO in this State,

(C) the effect of the redomestication would be substantially to lessen competition in this state or tend to create a monopoly therein,

(D) the financial condition of the HMO is such as might jeopardize or prejudice the interest of its enrollees, members or subscribers or this state and is not in the public interest, or

(E) the competence, experience and integrity of those persons who control the operation of the HMO are such that it would not be in the interest of the enrollees, members, subscribers, the public or the state to permit the domestication.

(2) The HMO's application to redomesticate shall contain information acceptable to the Insurance Commissioner concerning its financial condition, its plan of operation for the succeeding three (3) years, and information concerning the competence, experience and integrity of those persons who control the operation of the HMO.

(3) The application for redomestication shall be deemed approved unless the Insurance Commissioner has, within thirty (30) days after the filing of a complete redomestication application, entered his order disapproving the redomestication.

(b) Any domestic HMO may, upon the approval of the Insurance Commissioner, transfer its domicile to any other state in which it is admitted to transact the business of an HMO, and upon such a transfer, shall cease to be a domestic HMO, and shall be admitted to this state if qualified as a foreign HMO. The Insurance Commissioner shall approve any such proposed transfer unless he shall determine such transfer is not in the interest of the enrollees, members and subscribers of this state.

(c) The certificate of authority, agents appointments and licenses, rates, and other items which the Insurance Commissioner allows, in his discretion, which are in existence at the time any HMO licensed to transact the business of an HMO

in this state transfers its corporate domicile to this or any other state by merger, consolidation or any other lawful method shall continue in full force and effect upon such transfer if such insurer remains duly qualified to transact the business of an HMO in this state. All outstanding group or individual contracts of any transferring HMO shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the Insurance Commissioner. Every transferring HMO shall file new group or individual contract forms with the Insurance Commissioner on or before the effective date of the transfer, but may use existing group or individual contract forms with appropriate endorsements if allowed by, and under such conditions as approved by the Insurance Commissioner. However, every such transferring HMO shall notify the Insurance Commissioner of the details of the proposed transfer, and shall file promptly, any resulting amendments to corporate documents required to be filed with the Insurance Commissioner.

(d) Applications for redomestication to this State shall be made by the filing of a Form R as set forth in Appendix F of this Chapter.

### **365:40-3-17. Forms: general requirements**

(a) **Forms A, B, C, D, E and R.** HMO Forms A, B, C, D, E and R, as set forth in Appendices A, B, C, D, E, and F of this Chapter, are intended to be guides in the preparation of the statements required by Article 16A of Title 36, Section 6930 of Title 36 and O.A.C. 365:40-3-12, 13 and 16. They are not intended to be blank forms that are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable, or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) **Filing statements.** Two (2) complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Insurance Commissioner by personal delivery to the Office of the Insurance Commissioner in Oklahoma City, Oklahoma, or by mail addressed to the Insurance Commissioner of the State of Oklahoma, P. O. Box 53408, Oklahoma City, OK 73152-3408. A copy of an HMO Form C shall be filed in each state in which an HMO is authorized to do business, if the HMO authority of that state has notified the HMO of its request in writing, in which case the HMO has thirty (30) days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c) **Format of statements.** Statements should be prepared on paper 8 1/2" x 11" in size and preferably bound at the top or the top left hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted

in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language, and monetary values shall be stated in United States Currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States Currency.

### **365:40-3-18. Forms: incorporation by reference, summaries and omissions**

(a) **Incorporated by reference.** Information required by an item of HMO Forms A, B, D, E, or R as set forth in Appendices A, B, D, E and F of this Chapter may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of HMO Forms A, B, D, E or R provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Insurance Commissioner that were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(b) **Summary or outline of document.** Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Insurance Commissioner that was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents is required to be filed with a schedule identifying the omitted documents and setting forth the material details in which the omitted documents differ from the documents filed.

(c) **Forms: additional information and exhibits.** In addition to the information expressly required to be included in HMO Forms A, B, C, D, E and R, as set forth in Appendices A, B, C, D, E and F of this Chapter, the Insurance Commissioner may request such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as he/she may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes

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to HMO Forms A, B, C, D, E or R, as set forth in Appendices A, B, C, D, E and R of this Chapter, shall include on the top of the cover page the phrase: "Change Number [insert number] to" and shall indicate the date of the change and not the date of the original filing.

### **365:40-3-19. Acquisition of control; statement filing (HMO Form A)**

(a) **HMO Form A.** A person required to file a statement pursuant to Section 6930 of the HMO Act and Section 1653 of the Holding Company Act shall furnish the required information on Form A, hereby made a part of this section, as set forth in Appendix A of this Chapter. Such person shall also furnish the required information on HMO Form E, as set forth in Appendix E of this Chapter.

(b) **Amendments to applications.** The applicant shall promptly advise the Commissioner of any changes in the information so furnished on HMO Form A arising subsequent to the date upon which such information was furnished, but prior to the Commissioner's disposition of the application.

### **(c) Identification of Section 6930/Section 1653(a) Health Maintenance Organizations.**

(1) **Domestic HMO name.** The name of the domestic HMO on the cover page of an HMO Form A should be indicated as follows: "ABC HMO, a subsidiary of XYZ Holding Company."

(2) **Reference to subsidiary HMO and person being acquired.** Where an HMO is being acquired, references to "the HMO" contained in HMO Form A (Appendix A of this Chapter) shall refer to both the domestic subsidiary HMO and the person being acquired.

### **365:40-3-20. Pre-acquisition notification**

If a domestic HMO, including any person controlling a domestic HMO, is proposing a merger or acquisition pursuant to Section 6930 of the HMO Act and Section 1653(a) of the Holding Company Act, that person shall file a preacquisition notification form, HMO Form E, as set forth in Appendix E of this Chapter. In addition to the information required by HMO Form E, the Commissioner may require an expert opinion as to the competitive impact of the proposed acquisition.

### **365:40-3-21. Annual registration of HMOs; statement filing (HMO Form B)**

(a) **HMO Form B.** An HMO filing an annual registration statement pursuant to O.A.C. 365:40-3-12 shall furnish the required information on HMO Form B, hereby made a part of this section, as set forth in Appendix B of this Chapter.

(b) **Summary registration.** An HMO filing an annual registration statement pursuant to O.A.C. 365:40-3-12 is also required to furnish information required on HMO Form C, as set forth in Appendix C of this Chapter. An HMO shall file a copy of HMO Form C in each state in which the HMO is authorized to do business, if requested by the HMO authority/agency of that state.

(c) **Amendments to HMO Form B.**

(1) **15 day amendments.** An amendment to HMO Form B (Appendix B of this Chapter) shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(2) **Filing date amendments.** Amendments shall be filed in the HMO Form B format, as set forth in Appendix B of this Chapter, with only those items which are being amended reported. Each amendment shall include at the top of the cover page "Amendment No. [insert number] to HMO Form B for [insert year]" and shall indicate the date of the change and not the date of the original filing.

### **(d) Alternative and consolidated registrations.**

(1) **Registration statement for affiliates.** Any authorized HMO may file a registration statement on behalf of any affiliated HMO or HMOs which are required to register under Section 365:40-3-12. A registration statement may include information not required by the Holding Company Act regarding any HMO in the insurance holding company system even if such HMO is not authorized to do business in this State. In lieu of filing a registration statement on HMO Form B (Appendix B of this Chapter), the authorized HMO may file a copy of the registration statement or similar report which it is required to file in its State of domicile, provided:

(A) the statement or report contains substantially similar information required to be furnished on HMO Form B; and

(B) the filing HMO is the principal company in the insurance holding company system.

(2) **Principal company in holding company.** The question of whether the filing HMO is the principal company in the insurance holding system is a question of fact and an HMO filing a registration statement or reporting in lieu of HMO Form B (Appendix B of this Chapter) on behalf of an affiliated HMO, shall set forth a brief statement of facts which will substantiate the filing HMO's claim that it, in fact, is the principal HMO in the insurance holding company system.

(3) **Section 365:40-3-12(f) or (g).** Any HMO may take advantage of the provisions of Section 365:40-3-12(f) or (g) without obtaining the prior approval of the Insurance Commissioner. The Insurance Commissioner, however, reserves the right to require individual filings if he/she deems such filings necessary in the interest of clarity, ease of administration or the public good.

### **(e) Disclaimers and termination of registration.**

(1) **Disclaimer of affiliation.** A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(A) the number of authorized, issued and outstanding voting securities of the subject.

(B) with respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities

which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly.

(C) all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person.

(D) a statement explaining why such person should not be considered to control the subject.

**(2) Termination of registration.** A request for termination of registration shall be deemed to have been granted unless the Insurance Commissioner notifies the registrant otherwise within 30 days after receipt of the request.

**365:40-3-22. Dividend to stockholders**

(a) A domestic HMO shall not pay any ordinary cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business (positive unassigned funds). The restriction shall also apply to extraordinary dividends as defined in O.A.C. 365:40-3-13.

(b) A dividend otherwise proper may be payable out of the HMO's earned surplus even though its total surplus is then less than the aggregate of its past contributed surplus resulting from issuance of its capital stock at a price in excess of the par value thereof.

**365:40-3-23. Extraordinary dividends and other distributions**

**(a) Request for approval of extraordinary dividends.** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- (1) the amount of the proposed dividend;
- (2) the date established for payment of the dividend;
- (3) a statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;
- (4) a copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

(A) the amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the HMOs own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(B) total capital and surplus as of the 31st day of the December next preceding;

(C) the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-month periods; and

(D) the dividends paid to stockholders excluding distributions of the HMO's own securities in the preceding two (2) calendar years.

(5) a balance sheet and statement of income for the period intervening from the last annual statement filed with the Insurance Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(6) a brief statement as to the effect of the proposed dividend upon the HMO's surplus and the reasonableness of surplus in relation to the HMO's outstanding liabilities and the adequacy of surplus relative to the HMO's financial needs.

**(b) Report of dividends and distributions.** Subject to Section 365:40-3-13, each registered HMO shall report to the Commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Section 365:40-3-13(a) and (b).

**365:40-3-24. Adequacy of surplus**

The factors set forth in Section 365:40-3-13(d) are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an HMO's surplus, no single factor is necessarily controlling. The Commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the HMO. In comparing the surplus maintained by other HMOs, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

**365:40-3-25. Failure to file**

Any failure of an HMO, without just cause, to timely file any registration statement, summary or other information as required by the HMO Act or this Part is a violation of this regulation.

**PART 5. MISCELLANEOUS**

**365:40-3-30. Liabilities**

Liabilities shall be computed in accordance with the provisions of the NAIC Accounting Practices and Procedures Manual of the NAIC.

**365:40-3-31. Name of HMO**

(a) No HMO shall be authorized to transact the business of an HMO in Oklahoma which has or uses a name so similar to that of any HMO already so authorized as to cause uncertainty or confusion; except, that in case of conflict of names between two HMOs, the Insurance Commissioner may permit or require

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the newly-authorized insurer to use in Oklahoma such supplementation or modification of its name as may reasonably be necessary to avoid such conflict.

(b) No insurer shall be authorized to transact the business of an HMO in Oklahoma which has or uses a name which tends to deceive or mislead as to the type of organization of the HMO.  
**365:40-3-32 Standards for determining hazardous financial condition**

The following may be considered by the Insurance Commissioner to determine whether the continued operation of any HMO might be deemed to be hazardous to the enrollees, members, subscribers, creditors or the general public. The Commissioner may consider:

- (1) financial condition and market conduct examination reports;
- (2) the National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports;
- (3) the ratios of commission expense, general business expense, group and individual contract benefits and reserve increases as to annual premium and net investment income;
- (4) the HMO's assets;
- (5) the HMO's reinsurance program;
- (6) the HMO's operating results for the last twelve month period or any shorter period of time;
- (7) the financial condition of the HMO's affiliates, subsidiaries, or reinsurers;
- (8) contingent liabilities, pledges or guaranties;
- (9) whether any "controlling person" of an HMO is delinquent in the transmitting to, or payment of, net premiums to such HMO;
- (10) the age and collectibility of receivables;
- (11) competence and fitness of the management of the HMO, including officers, directors, or any other person who directly or indirectly controls the operation of such HMO;
- (12) whether the HMO has failed to respond to the Insurance Commissioner's inquiries relative to the condition of the HMO or has furnished false and misleading information in response to such inquiries;
- (13) whether the HMO either has filed any false or misleading sworn financial statements, or has released false or misleading financial statements to lending institutions or to the general public;
- (14) whether the HMO lacks adequate financial and administrative capacity to meet its obligations in a timely manner;
- (15) whether the HMO has experienced or will experience in the foreseeable future cash flow and/or liquidity problems.

### **365:40-3-33. Commissioner's authority**

(a) For the purposes of making a determination of an HMO's financial condition under the Act, the Insurance Commissioner may, if consistent with the facts and existing law:

(1) Disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceedings;

(2) Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;

(3) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor;

(4) Increase the HMO's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial likelihood that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

(b) If the Insurance Commissioner determines that the continued operation of the HMO licensed to transact business in this state may be hazardous to the enrollees, members, subscribers or the general public, then the Insurance Commissioner may, upon his determination, issue an order making such finding and including a list of requirements necessary to abate such finding. Such list may include among, other things:

(1) reduce the total amount of present and potential liability for group and individual contract benefits by reinsurance;

(2) reduce, suspend or limit the volume of business being accepted or renewed;

(3) reduce general and commission expenses by specified methods;

(4) increase the HMO's capital and surplus;

(5) suspend or limit the declaration and payment of dividend by an HMO to its stockholders or to its enrollees, members or subscribers;

(6) file reports in a form acceptable to the Insurance Commissioner concerning the market value of an HMO's assets;

(7) limit or withdraw from certain investments or discontinue certain investment practices to the extent the Insurance Commissioner deems necessary;

(8) document the adequacy of premium rates in relation to the risks;

(9) file, in addition to regular annual and quarterly financial statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as directed by the Insurance Commissioner.

## **SUBCHAPTER 5. LIFE, ACCIDENT & HEALTH DIVISION AND CLAIMS AND CONSUMER ASSISTANCE DIVISION RULES**

### **PART 1. GENERAL PROVISIONS**

**365:40-5-1. Definitions**

When used in this Subchapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

**"Affiliation period"** means a period that must expire before the coverage becomes effective.

**"Bona fide association"** means an association which:

- (A) Has been actively in existence for at least 5 years;
- (B) Has been formed and maintained in good faith for purposes other than obtaining insurance;
- (C) Does not condition membership in the association on any health-status-related factor that relates to an individual, including an employee of an employer or a dependent of an employee;
- (D) Makes health coverage offered through the association available to all members regardless of any health-status related factor that relates to such members or individuals eligible for coverage through a member; and
- (E) Does not make health coverage offered through the association available other than in connection with a member of the association.

**"Child"** means natural children, stepchildren, adopted children, children placed for adoption, and children under legal guardianship.

**"Claim reimbursement"** means repayment from an HMO to a subscriber for services rendered by a noncontracting provider, or direct payment from an HMO to a noncontracting provider.

**"Eligible Dependent"** means a spouse, an unmarried child under the age of eighteen (18) years, an unmarried child under the age of twenty-three (23) who is a full-time student and who is financially dependent upon the subscriber, and an unmarried child of any age who is medically certified as disabled and dependent upon the subscriber.

**"Grievance"** has the same meaning as in 36 O.S. § 6902 of the HMO Act.

**"Group"** means an employee group or another aggregation of individuals who wish to purchase or who have purchased HMO membership. The group shall be composed of at least two (2) individuals, and shall not be established on the basis of race. Unless specifically exempted in this Chapter, any provision addressed to groups shall apply to small and large groups.

**"Health professionals"** means professionals, including physicians, engaged in the delivery of health services who are licensed, certified, or practice under other authority consistent with State law.

**"Inquiry"** means an oral or written statement to the Department from a member or other resident of this state expressing misunderstanding, dissatisfaction or disagreement with an activity of an HMO, or reporting a possible violation of this Chapter or the laws of this state by an HMO. Anonymous statements shall be considered as inquiries.

**"Large group"** means a group of at least 51 employees.

**"Late enrollee"** means, with respect to coverage under a group contract, a subscriber or dependent who enrolls under the

contract other than during the first effective date in which the subscriber or dependent is eligible to enroll under the contract, or a special enrollment period.

**"Non-basic health care services"** means health care services other than basic health care services.

**"Noncontracting provider"** means a health service provider not having an HMO contract that includes financial hold harmless language as described in 36 O.S. 6913.

**"Out-of-area services"** means the health care services that an HMO covers when its enrollees are outside of the service area.

**"Physician"** means any person holding a valid license to practice medicine and surgery, osteopathy, chiropractic, podiatry, optometry, or dentistry, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes.

**"Primary care physician"** means a physician who supervises, coordinates, and provides initial and basic care to enrollees, and who initiates their referral for specialist care and maintains continuity of patient care.

**"Replacement coverage"** has the same meaning as in 36 O.S. § 6902 of the HMO Act.

**"Service area"** means the geographic area as defined through zip codes, census tracts, or other geographic subdivisions, found by the Department to be the area within which the HMO provides or arranges for basic and supplemental health care services that are available and accessible to its enrollees as required by the Act and this Chapter.

**"Small group"** means a group composed of not less than two and not more than 50 employees as defined in the Small Employers Health Insurance Reform Act, 36 O.S. § 6511, et seq.

**"Special Enrollment Period"** means a time when a plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent.

(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or issuer required such a statement as such time and provided the employee with notice of such requirement and the consequences of such requirement at such time.

(C) The employee's or dependent's coverage described in subparagraph 1

(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours

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of employment or employer contributions toward such coverage were terminated.

### **PART 3. RATING SYSTEM**

#### **365:40-5-10. Definitions**

When used in this Part the term "Rating System" means the method or combination of methods which the HMO uses to calculate enrollee premiums, and is limited to community rating, community rating by class, adjusted community rating or a combination of all. An HMO may fix rates of payment under either a system of community rating, community rating by class, adjusted community rating or under all three systems. However, the HMO may use only one such system for setting rates for any group at any one time.

#### **365:40-5-11. Community rating**

Under community rating, rates of payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but except as otherwise authorized in this paragraph, such rates must be equivalent for all individuals and for all families of similar composition. This does not preclude changes in the rates of payments for health services based on a community rating system which are established for new enrollments or re-enrollments and which changes do not apply to existing contracts until the renewal of such contracts. Only the following differentials in rates of payments may be established under such system:

- (1) Nominal differentials in such rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of subscribers:
  - (A) Individual (non-group) subscribers (including their families).
  - (B) Small groups of subscribers.
  - (C) Large groups of subscribers.
- (2) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers.
- (3) Differentials in such rates may be established for subscribers enrolled under any governmental authority or program authorized by United States Code, or under any health benefits program for employees of States, political subdivisions of States, and other public entities.
- (4) An HMO may establish a separate community rate for separate regional components of the organization upon satisfactory demonstration of the following:
  - (A) Each such regional component is geographically distinct and separate from any other regional component.
  - (B) Enrollment is established with respect to the individual regional component, rather than with respect to the parent HMO.
  - (C) Each such regional component provides substantially the full range of basic health care services to

its enrollees without extensive referral between components of the organization for such services, and without substantial utilization by any two such components of the same health care facilities. The separate community rate for each such regional component of the HMO must be based on the different costs of providing health services in such regions.

#### **365:40-5-12. Community rating by class**

Under "community rating by class," rates are fixed by groups for individuals and families, and must be equivalent for all individuals or for all families in the same group. A class is actuarially derived or developed based on factors which reasonably predict differences in the use of HMO services. Age, sex, family size and marital status factors need not be justified.

#### **365:40-5-13. Adjusted community rating**

Under "adjusted community rating" rates are fixed on the basis of revenue requirements for providing services to the group, except that rates for a group of less than 50 persons may not be fixed at rates greater than 115 percent of the rate that would be fixed under community rating or community rating by class.

#### **365:40-5-14. Rates to reflect risk-sharing arrangements**

An HMO may establish differentials based on financial risk-sharing arrangements with organizations or entities which have contracted with the HMO to provide selected basic health care services to members of said organizations or entities, as permitted by 36 O.S. § 6902(1) and otherwise permitted by the HMO Act or this Chapter.

### **PART 5. BASIC AND SUPPLEMENTAL HEALTH CARE SERVICES**

#### **365:40-5-20. Basic health care services**

Basic health care services shall include:

- (1) Physician services including consultant and referral services by a physician, and other health professional services as necessary to provide allopathic, osteopathic, chiropractic, podiatric, optometric, and psychological services. If a service of a physician may also be provided under applicable State law by another type of health professional, an HMO may provide the service through these other health professionals.
- (2) Outpatient services including diagnostic services, treatment services and x-ray services, for patients who are ambulatory and may be provided in a non-hospital based health care facility or at a hospital.
- (3) Inpatient hospital services including room and board, general nursing care, meals and special diets when medically necessary, use of operating room and related facilities, use of intensive care unit and services, x-ray services, laboratory, and other diagnostic tests, drugs,

medications, biologicals, anesthesia and oxygen services, special duty nursing when medically necessary, radiation therapy, inhalation therapy, perfusion, and administration of whole blood and blood plasma.

(4) Outpatient services and inpatient hospital services including short-term rehabilitation services and physical therapy which the HMO expects can result in the significant improvement of an enrollee's condition within two months.

(5) Medically necessary emergency health services, which shall include instructions to enrollees on how to get medically necessary emergency health services both in and out of the service area.

(6) Twenty outpatient visits per enrollee per year, as may be necessary and appropriate for short-term evaluative or crisis intervention mental health services, or both.

(7) Diagnosis, medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs, including

(A) Diagnosis and medical treatment for the abuse of or addiction to alcohol and drugs including detoxification for alcoholism or drug abuse on either an outpatient or inpatient basis, whichever is medically determined to be appropriate, in addition to the other required basic health care services for the treatment of other medical conditions.

(B) Referral services for either medical or for non-medical ancillary services. Medical ancillary services shall be a part of basic health care services; nonmedical ancillary services (such as vocational rehabilitation and employment counseling) and prolonged rehabilitation services in a specialized inpatient or residential facility need not be a part of basic health care services.

(8) Diagnostic laboratory and diagnostic and therapeutic radiological services in support of basic health care services.

(9) Home health services provided at an enrollee's home by health care personnel, as prescribed or directed by the responsible physician or their authority designated by the HMO.

(10) Preventive health services, which shall be made available to enrollees and shall include at least the following:

(A) Services for children from birth to age 21 as determined by the American Academy of Pediatrics in "Guidelines for Health Supervision";

(B) Immunizations for adults and children as recommended by the Advisory Committee on Immunization Practices (ACIP) Centers for Disease Control and Prevention, except those required for foreign travel and employment;

(C) Periodic health evaluations for adults to include voluntary family planning services; and

(D) Preventive services identified through the HMO quality assurance program designed to contribute to achieving the U.S. Department of Health

and Human Services "Healthy People 2010" objectives.

(11) Medically necessary eye care services for detection and treatment of diseases or injury to the eye.

(12) Inpatient and outpatient care for treatment of the birth defect known as cleft lip or cleft palate or both including medically necessary oral surgery, orthodontics, and otologic, audiological, and speech/language treatment.

### **365:40-5-21. Supplemental health care services**

Supplemental health care services of an HMO may include the following:

(1) Corrective appliances and artificial aids.

(2) Eyeglasses and hearing care not included as a basic health care service.

(3) Dental services.

(4) Mental health services not included as a basic health care service.

(5) Long-term physical therapy and rehabilitative services.

(6) Cosmetic surgery, unless medically necessary.

(7) Prescribed drugs and medicines incidental to outpatient care. Supplemental coverage for prescription drugs shall also provide coverage of off-label uses of prescription drugs used in the treatment of cancer or the study of oncology.

(8) Ambulance services, unless medically necessary.

(9) Care for military service connected disabilities for which the enrollee is legally entitled to services and for which facilities are reasonably available to this enrollee.

(10) Care for conditions that State or local law requires be treated in a public facility.

(11) Custodial or domiciliary care.

(12) Experimental medical, surgical, or other experimental health care procedures, unless approved as a basic health care service by the policy making body of the HMO.

(13) Personal or comfort items and private rooms, unless necessary during inpatient hospitalization.

(14) Whole blood and blood plasma.

(15) Durable medical equipment for home use (such as wheel chairs, surgical beds, respirators, dialysis and machines).

(16) Health care services which are unusual or infrequently provided and not necessary for the protection of individual health, as approved by the Department upon application by the HMO. "Unusual or infrequently used health services" means those health services which are projected to involve fewer than 1 percent (1%) of the encounters per year for the entire HMO enrollment, or those health services the provision of which, given the enrollment projection of the HMO and generally accepted staffing patterns, is projected will require less than 0.25 full time equivalent health professionals.

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### **365:40-5-22. Benefit changes**

Each HMO shall provide to each group and individual enrollee a written statement of benefit changes for the upcoming benefit year. The statement shall identify clearly and concisely those aspects of the proposed benefits plan which differ from the current benefits plan. Such notice should be provided as soon as available, but at least thirty (30) days prior to the date by which the group or individual enrollees must choose coverage.

### **365:40-5-23. Identification cards**

The subscriber and enrollee identification card issued by an HMO shall clearly indicate the name, mailing address, and phone number for submission of requests for payment or reimbursement of claims. If the HMO requires claims to be submitted to an entity other than the licensed HMO, then the identification card shall disclose that requirement. The HMO shall not distribute a subscriber and enrollee identification card until its form has been approved by the Department.

## **PART 7. POINT OF SERVICE OPTION**

### **365:40-5-30. Definitions**

When used in this Part, "point of service option" means a benefit that allows a member to submit claims for payment or reimbursement of nonemergency health services obtained from noncontracting providers. It also may mean a benefit for non-emergency services obtained from a contracting provider without a referral or authorization.

### **365:40-5-31. Purpose/scope**

- (a) The provisions of this Part do not apply to emergency care.
- (b) Each HMO shall submit this benefit for the Department's approval before offering the benefit to members.
- (c) This benefit is optional, and the HMO has the following flexibility:
- (1) The HMO is not required to offer this benefit;
  - (2) The HMO may decide which services will be offered or excluded;
  - (3) The HMO may limit the groups to whom this benefit is offered, but the benefit must be offered to all persons within the group;
  - (4) If individual contracts are offered, the HMO may limit the individuals to whom this benefit is offered;
  - (5) The HMO may set annual dollar limits on services provided through this benefit;
  - (6) The HMO may use enrollee cost-sharing for this benefit. This cost-sharing may be accomplished through premium, copayment or deductible; and,
  - (7) The HMO may require precertification of services provided through this benefit.
- (d) Under no circumstances shall the member be required to pay for any portion of these services, other than as provided in the member's contract.

(e) The marketing materials of any HMO offering this benefit must be written in a manner so that the enrollee will easily understand the services included, the procedures to be followed, and the costs.

(f) This benefit may be supplemented by a reasonable deductible. The deductible should be set to discourage excessive use but must not be prohibitively high. Copayments cannot exceed 50% of the HMO's allowable charge for any single service.

(g) The offering of this benefit does not relieve the HMO of the duty to ensure that all basic health care services are available and accessible.

(h) The requirements of Part 23 of this Subchapter shall apply to any claims for payment or reimbursement submitted under this benefit.

### **365:40-5-32. Responsibilities of the HMO**

(a) Each HMO that offers a point of service option shall collect and report to the Department the number of enrollees who access the benefit, the types and volumes of services received, and the costs to enrollees and the HMO.

(b) Each HMO shall inform enrollees about the following:

- (1) Any premium and cost-sharing charges;
- (2) Annual out-of-pocket limits;
- (3) Annual and maximum benefit limits for out-of-plan services; and,
- (4) Potential financial liability for services for which payment could be denied because the service is not a covered benefit, or the dollar limit is exceeded.

(c) Each HMO shall file with the Department all marketing and educational material for the point of service option prior to use of that material.

## **PART 9. HMO REQUIREMENTS AND PROHIBITIONS**

### **365:40-5-40. Services to members**

Within the HMO's service area, basic health care services and those supplemental health care services for which enrollees have contracted to be provided by the HMO shall be:

(1) Provided or arranged by the HMO, except as described in Parts 7, 13 and 19 of this Subchapter. Basic health care services shall be provided for HMO members as needed and without limitations as to time and cost.

(2) Available and accessible to each of the HMO's enrollees with reasonable promptness with respect to:

(A) Geographic location, hours of operation, and provisions for after-hours services (medically necessary emergency services shall be available and accessible twenty-four (24) hours a day, seven (7) days a week). An HMO that has a service area located in a non-metropolitan area may make a basic health care service available outside its service area if that basic health care service is not a primary care or emergency care service and if there is an insufficient number of providers of that basic health care service within the

service area who will provide that service to enrollees of the HMO.

(B) Staffing patterns within generally accepted norms for meeting the projected enrollment needs.

(C) The type of health professional so that availability of health professionals is adequate to meet the enrollees' needs.

(3) Provided in a manner that assures continuity, except as described in Part 7 of this Subchapter, including but not limited to:

(A) Provision of a health professional who is primarily responsible for coordinating the enrollee's overall health care.

(B) Development of a health (including medical) record keeping system through which pertinent information relating to the health care of the patient is accumulated and is readily available to appropriate professionals.

(C) Coordination of the enrollee's participation in the selection of an alternative type of health care professional.

**365:40-5-41. Membership**

(a) An HMO shall not expel or refuse to re-enroll any enrollee, nor refuse to enroll individual members of a group, or establish rules for eligibility that are based on health status factors, health care needs, or age of the enrollee or individual.

(b) An HMO shall not require an individual within a group to pay a higher premium or contribution than would a similarly situated individual, based on a health-status factor.

(c) Nothing in this Section prohibits an HMO from requiring that, as a condition of continued eligibility for enrollment, dependents of a subscriber, upon reaching a specified age, convert to non-group enrollment.

**365:40-5-42. Individual conversion contracts**

(a) Each HMO shall offer an individual conversion contract to a subscriber (and his or her enrolled dependents) if coverage under a group contract would otherwise terminate for any of the following:

(1) A subscriber who terminates his or her employment.

(2) Each enrollee who would otherwise cease to be eligible for HMO enrollment because of his or her age or the death or divorce from a subscriber.

(3) Any circumstances beyond the subscriber's control which leave the subscriber without alternative coverage.

(b) An HMO shall not be required to issue an individual conversion contract if any of the following occur:

(1) The enrollee becomes eligible for or covered by other comparable coverage.

(2) The group contract is terminated or is not renewed, except as specified in Part 13 of this Subchapter.

(3) The enrollee's coverage is terminated for cause.

(4) The enrollee does not enroll for individual conversion coverage within 31 days.

(c) Nothing in Part 13 of this Subchapter requires an HMO offering benefit plans only to group health plans or through an association to offer coverage in the individual market.

**365:40-5-43. Premiums/co-payments**

(a) Each HMO shall provide or arrange basic health care services for a basic health care services payment which:

(1) Is paid on a periodic basis without regard to the dates these services are provided;

(2) Is fixed without regard to the frequency, extent, or kind of basic health care services furnished;

(3) Is fixed under a rating system which generates funds sufficient to meet the HMO's financial plan, and under which the rates are reasonable for the health services provided; and

(4) May be supplemented by nominal co-payments for specific basic health care services. Each HMO may establish one or more co-payment options calculated on the basis of a rating system.

(A) An HMO may not impose co-payment charges that exceed fifty (50) percent of the total cost of providing any single service to its enrollees, or in the aggregate more than twenty (20) percent of the total cost of providing all basic health care services.

(B) An HMO shall not impose on any subscriber or enrollee, in any calendar year, co-payment charges of more than two hundred (200) percent of the annual premium charged for an option with no co-payments.

(C) Co-payments applied to a service must be equal for all providers unless the unequal co-payments are based on differences in the cost to the HMO for the service.

(b) Basic health care services shall be provided for an illness or injury covered under a workers' compensation law or an insurance policy. The HMO may charge or authorize the provider to charge:

(1) The insurance carrier, employer, or other entity which is required to pay for the services; and

(2) The enrollee, to the extent that the enrollee has been paid under the law or policy for the services.

(c) An HMO may require payments for supplemental health care services in addition to the payments for basic health care services. Or, an HMO may include supplemental health care services in the basic health care services for a basic health care service payment.

(1) Supplemental health services payments may be made in any agreed upon manner, such as prepayment or fee-for-service.

(2) Supplemental health services may be limited as to time and cost.

**365:40-5-44. Internal grievance system**

A grievance system shall be established and maintained by an HMO to provide reasonable procedures for the prompt and effective resolution of written grievances pursuant to the HMO Act.

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(1) An HMO shall provide grievance forms to be given to enrollees who wish to register written grievances. Such forms shall include the address and telephone number to which grievances must be directed and shall also specify required time limits imposed by the HMO.

(2) The grievance system shall provide for written acknowledgement of any grievance within seven (7) days from the date the grievance is registered with the HMO. Each grievance shall be resolved or finally determined within one hundred twenty (120) days after the grievance is registered. This period may be extended in the event of a delay in obtaining the documents or records from a non-contracting provider necessary for the resolution of the grievance, or by the mutual written agreement of the HMO and the enrollee.

(3) If enrollee grievances may be resolved through a specified arbitration agreement, the enrollee shall be advised in writing of his or her rights and duties under the agreement at the time the grievance is registered. Any such agreement must be accompanied by a statement setting forth in writing the terms and conditions of binding arbitration. Any HMO that makes such binding arbitration a condition of enrollment must fully disclose this requirement to its enrollees in the contract and evidence of coverage.

(4) An enrollee or any other person may seek the assistance of the Insurance Commissioner at any time whether or not a written grievance was been submitted to an HMO by an enrollee.

### **365:40-5-45. Guaranteed renewal**

(a) Except as otherwise provided in this section, an HMO that issues a group contract must renew or continue in force such coverage at the option of the contractholder.

(b) An HMO may nonrenew or discontinue a group contract based only on one or more of the following conditions:

(1) The contractholder has failed to pay premiums or contributions in accordance with the terms of the contract or the HMO has not received timely premium payments.

(2) The contractholder has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the contract.

(3) The contractholder has failed to comply with a material provision of their group contract with the HMO that relates to rules for employer contributions or group participation.

(4) The HMO is ceasing to offer a particular type of coverage in a market.

(5) There are no longer enrollees who live or work in the service area.

(6) In the case of group health coverage that is made available only through a bona fide association, the membership of an employer in the association, on the basis of which the coverage is provided, ceases, but only if such coverage is terminated uniformly without regard to any health-status-related factors that relate to any covered individuals.

(c) An HMO shall not impose pre-existing condition limitations.

(d) An HMO may apply an affiliation period not to exceed two (2) months (or three (3) months for late enrollees). Affiliation periods shall be applied uniformly without regard to any health status-related factors. No premium shall be charged for the affiliation period. The HMO is not required to provide health care services or benefits during such period.

### **365:40-5-46. Small group offering**

An HMO shall accept every small group employer and every eligible individual of that employer that applies for coverage.

### **365:40-5-47. Special enrollment periods**

(a) An HMO that issues a group contract shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the contract, or a dependent of such an employee if the dependent is eligible but not enrolled for coverage under such contract, to enroll for coverage under the terms of the contract if each of the following conditions is met:

(1) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent. For the purpose of this section, the terms "group health plan" and "health insurance coverage" have the same meaning ascribed in Section 2791 of the Federal Public Health Service Act;

(2) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or HMO, if applicable, required such a statement at such time and provided the employee with notice of such requirement and the consequences of such requirement at such time;

(3) The employee's or dependent's coverage described in paragraph (1) above:

(A) Was under a COBRA continuation provision or other continuation and the coverage under such provision was exhausted; or

(B) Was not under such a provision and the coverage was terminated as a result of loss of eligibility for the coverage, including legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or the coverage was terminated as a result of the termination of employer contributions toward such coverage; and

(4) Under the terms of the plan, the employee requests such enrollment not later than thirty (30) days after the date in O.A.C. 365:40-5-46(a)(3)(A) or O.A.C. 365:40-5-46(a)(3)(B) occurred.

(b) For dependent beneficiaries, the HMO shall provide for a dependent special enrollment period described in Subsection (c) of this Section during which the person, or, if not otherwise enrolled, the employee may be enrolled under the contract as a dependent of the employee, and in the case of the birth or adoption of a child, the spouse of the employee may be enrolled

as a dependent of the employee if such spouse is otherwise eligible for coverage, if:

- (1) A group contract makes coverage available with respect to a dependent of an employee;
- (2) The employee is a participant under the contract, or has met any waiting period applicable to becoming a participant under the contract, and is eligible to be enrolled under the contract except for a failure to enroll during a previous enrollment period; and
- (3) A person becomes such a dependent of the employee through marriage, birth, or adoption or placement for adoption, the HMO shall provide for a dependent special enrollment period described in Subsection (c) of this Section during which the person, or, if not otherwise enrolled, the employee, may be enrolled under the contract as a dependent of the employee, and in the case of the birth or adoption of a child, the spouse of the employee may be enrolled as a dependent of the employee if such spouse is otherwise eligible for coverage.

(c) A dependent special enrollment period under Subsection (b) of this Section shall be a period of not less than thirty (30) days and shall begin on the later of:

- (1) The date that dependent coverage is made available; or
- (2) The date of the marriage, birth, adoption or placement for adoption.

(d) If an employee seeks to enroll a dependent during the first thirty (30) days of such a dependent special enrollment period, the coverage of the dependent shall become effective:

- (1) In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;
- (2) In the case of a dependent's birth, as of the date of such birth; or
- (3) In the case of dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

**PART 11. COORDINATION OF BENEFITS**

**365:40-5-50. Purpose**

The purpose of this subchapter is to permit, but not require, plans to include a coordination of benefits (COB) provision unless prohibited by federal law; to establish a uniform order of benefit determination under which plans, including HMOs, pay claims; and to avoid claim delays and misunderstandings that could otherwise result from the use of inconsistent or incompatible provisions amount Plans. It is contrary to the public policy of this state for a Plan to declare its coverage to be "excess" to all others, or always "secondary", or to reduce its benefits because of the existence of duplicate coverage in a manner other than as permitted by this regulation; or to reduce its benefits because a person covered by the Plan is eligible for any other coverage. It is requested that courts give effect to this public policy when they consider the interrelation of Plans with order of benefit determination rules which comply with

this subchapter and Plans with order of benefit determination rules which differ from those set forth in this subchapter.

**365:40-5-51. Definitions**

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

"Allowable expense" means, unless otherwise mandated by law, any necessary, reasonable, and customary item of expense at least a portion of which is covered under at least one of the Plans covering the person for whom claim is made except where a statute requires a different definition. However, items of expense under coverage such as dental care, vision care, prescription drug or hearing aid programs may be excluded from the definition of allowable expense. A plan which provides benefits only for any such items of expense may limit its definition of allowable expense to like items of expense. When a Plan provides benefits in the form of services rather than cash payments, the reasonable cash value of each service rendered shall be deemed to be both an Allowable Expense and a benefit paid. The difference between the cost of a private hospital room and the cost of a semi-private hospital room shall not be deemed to be an "Allowable Expense," except for the period of time during which the patient's confinement to a private hospital room is deemed medically necessary in terms of generally accepted medical practice.

"Plan" means the following:

(A) "Plan" means any plan providing benefits or services for or by reason of medical or dental care or treatment, which benefits or services are provided by:

- (i) group, blanket or franchise insurance coverage,
- (ii) service plan contracts, group practice, individual practice and other prepayment coverage,
- (iii) any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans, and
- (iv) any coverage under governmental programs, and any coverage required or provided by any statute.

(B) The term "Plan" shall be construed separately with respect to each policy, contract, or other arrangement for benefits or services and separately with respect to that portion of any such policy, contract, or other arrangement which reserves the right to take the benefits or services of other Plans into consideration in determining its benefits and that portion which does not.

(C) Individually underwritten and issued contracts which provide a contractual right to renewal regardless of membership in or connection with any particular organization or group shall not be considered group type contracts, irrespective of the mode or channel of premium payment and regardless of any reduction in premium the covered person may receive by virtue of such method of premium collection.

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(D) The definition of a "Plan" within the COB provision of group contracts enumerates the types of coverage which the insurer may consider in determining whether other insurance exists with respect to a specific claim. Such definition:

(i) May not include individual or family policies, or individual or family subscriber contracts, except as provided in (ii) of this subparagraph and in (E) of this definition.

(ii) May include all group or group subscriber contracts as well as such group-type contracts as are not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition, at the option of the insurer and its policyholder client, whether or not individual policy forms are utilized and whether the group-type coverage is designated as "franchise" or "blanket" or in some other fashion.

(E) The definition of "Plan" may include both group and individual automobile "no fault" contracts but, as to the traditional automobile "fault" contracts, only the medical benefits written on a group or group-type basis may be included.

(F) Interpretation of the definition of a "Plan" may not include group or group-type hospital indemnity benefits (written on a non-expense incurred basis) of \$30 per day or less unless they are characterized as reimbursement type benefits but are designed to administer so as to give the insured the right to elect indemnity type benefits, in lieu of such reimbursement type benefits, at the time of claim. In any event, the amount of group and group-type hospital indemnity benefits which exceed \$30 per day may be construed as being included under the definition of "Plan".

(G) School accident type coverages, written on either an individual, blanket, group or franchise basis should not be taken in to consideration in coordination of benefits. In this context, school accident type coverages are defined to mean coverage covering grammar school, middle school, and high school students for accidents only, including athletic injuries, either on a 24 hour basis or "to and from school" for which the parent pays the entire premium.

(H) If "Medicare" or similar governmental benefits are included in the definition of a "Plan", such benefits may be taken into consideration without expanding any of the definitions of this provision beyond the hospital, medical, and surgical benefits which may be provided by the governmental program.

(I) A Plan may not coordinate or design benefits so that the benefits payable are altered solely on the basis that:

(i) another plan exists; or

(ii) except with respect to Part B of Medicare, that the claimant is or could have been covered under another Plan, or

(iii) the claimant has elected an option under another Plan providing a lower level of benefits than another option for which the claimant was eligible.

"This plan" means that portion of the policy that provides the benefits that are subject to this Part.

### **365:40-5-52. Effect on benefits**

(a) **Determining benefits.** This section shall apply in determining the benefits as to a person covered under the Plan for any claim determination period if, for the allowable expense incurred as to such person during such period, the sum of:

(1) the benefits that would be payable under this Plan in the absence of this provision, and

(2) the benefits that would be payable under all other Plans in the absence therein of provisions of similar purpose to this provision would exceed such Allowable Expenses.

(b) **Claim determination period.** As to any claim determination with respect to which this section is applicable, the benefits that would be payable under this Plan in the absence of this provision for the allowable expenses incurred as to such person during such claim determination period shall be reduced to the extent necessary to that the sum of such reduced benefits and all the benefits payable for such allowable expenses under all other Plans, except as provided in (c) of this section, shall not exceed the total of such allowable expenses. Benefits payable under another Plan include the benefits that would have been payable had claim been duly made therefore.

(c) **Coordination of benefits.** The benefits of another Plan will be ignored for the purpose of determining the benefits under this Plan if:

(1) the other Plan which is involved in (b) of this section and which contains a provision coordinating its benefits with those of this Plan would, according to its rules, determine its benefits after the benefits of this plan have been determined, and

(2) the rules set forth in (d) of this section would require this Plan to determine its benefits before such other Plan.

(d) **Order of benefit determination.** For the purpose of (c) of this section, the rules establishing the order of benefit determination are:

(1) The benefits of a Plan which covers the person on whose expenses claim is based other than as a dependent shall be determined before the benefits of a Plan which covers such person as a dependent.

(2) The following guidelines apply with respect to claims regarding dependent children:

(A) Except for cases of a person for whom claim is made as a dependent child whose parents are separated or divorced, the benefits of a plan which covers the person on which expenses claim is based as a dependent of a person whose date of birth, excluding year of birth, occurs earlier in a calendar year, shall be determined before the benefits of a Plan which covers

such person as a dependent of a person whose date of birth, excluding year of birth, occurs later in a calendar year. If either Plan does not have the provisions of this paragraph regarding dependents, which results either in each Plan determining benefits before the other or in each Plan determining its benefits after the other, the provisions of this paragraph shall not apply, and the rule set forth in the Plan which does not have the provisions of this paragraph shall determine the order of benefits.

(B) In the case of a person for whom claim is made as a dependent child whose parents are separated or divorced and the parent with custody of the child has not remarried, the benefits of a Plan which covers the child as a dependent of the parent with custody of the child will be determined before the benefits of a Plan which covers the child as a dependent of the parent without custody.

(C) In the case of a person for whom claim is made as a dependent child whose parents are divorced and the parent with custody of the child has remarried, the benefits of a Plan which covers the child as a dependent of the parent with custody shall be determined before the benefits of a Plan which covers that child as a dependent of the stepparent, and the benefits of a Plan which covers that child as a dependent of the stepparent will be determined before the benefits of a Plan which covers that child as a dependent of the parents without custody.

(D) In the case of a person for whom claim is made as a dependent child whose parents are separated or divorced, where there is a court decree which would otherwise establish financial responsibility for the medical, dental or other health care expenses with respect to the child, then, notwithstanding (B) and (C) of this paragraph, the benefits of a Plan which covers the child as a dependent of the parent with such financial responsibility shall be determined before the benefits of any other Plan which covers the child as a dependent child.

(3) When (1) and (2) of this subsection do not establish an order of benefit determination, the benefits of a Plan which has covered the person on whose expenses claim is based for the longer period time shall be determined before the benefits of a Plan which has covered such person the shorter period of time, provided that:

(A) the benefits of a plan covering the person on whose expenses claim is based as a laid-off or retired employee, or dependent of such person, shall be determined after the benefits of any other Plan covering such person as an employee, other than a laid-off or retired employee, or dependent of such person; and

(B) if either Plan does not have a provision regarding laid-off or retired employees, which results in each Plan determining its benefits after the other, then the provisions of (A) above shall not apply.

(4) When a claim under a Plan with a COB provision involves another Plan which also has a COB provision, the

carriers involved should use the rules in (1) through (3) of this subsection to decide the order in which the benefits payable under the respective plans will be determined.  
Note:

(A) In determining the length of time an individual has been covered under a given Plan, two successive Plans of a given group shall be deemed to be one continuous Plan so long as the claimant concerned was eligible for coverage within 24 hours after the prior Plan terminated. Thus, neither a change in the amount of scope of benefits provided by a Plan, a change in the carrier insuring the Plan, nor a change from one type of Plan to another, (e.g. single employer to multiple employer Plan, or vice versa, or single employer to a Taft-Hartley Welfare Plan) would constitute the start of a new Plan for purposes of this paragraph.

(B) If a claimant's effective date of coverage under a given Plan is subsequent to the date the carrier first contracted to provide the Plan for the group concerned (employer, union, association, etc.), then, the absence of specific information to the contrary, the carrier shall assume, for purposes of this paragraph, that the claimant's length of time covered under that plan shall be measured from claimant's effective date of coverage. If a claimant's effective date of coverage under a given Plan is the same as the date the carrier first contracted to provide the Plan for the group coverage, then the carrier shall request the group concerned to furnish the date the claimant first became covered under the earliest of any prior Plans the group may have had. If such date is not readily available, the date the claimant first became a member of the group shall be used as the date from which to determine the length of time his coverage under that Plan has been in force.

(5) Some Plans have order of benefit determination rules not consistent with this section which declare that the Plan's coverage is "excess" to all others, or "always secondary". This occurs because:

(A) certain Plans may not be subject to insurance section; or

(B) some group contracts have not yet been conformed to this section pursuant to the effective date.

(6) A Plan with order of benefit determination rules which complies with this section (herein called a Complying Plan) may coordinate its benefits with a Plan which is "excess" or "always secondary" or which uses order of benefit determination rules which are inconsistent with those contained in this section (herein called a Noncomplying Plan) on the following basis:

(A) If the Complying Plan is the Primary Plan, it shall pay or provide its benefits on a primary basis.

(B) If the Complying Plan is the Secondary Plan, it shall, nevertheless, pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the Complying Plan were the Secondary plan. In such a situation, such payment shall be the limit of the Complying Plan's liability.

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(C) If the Noncomplying Plan does not provide the information needed by the Complying Plan to determine its benefits within a reasonable time after it is requested to do so, the Complying Plan shall assume that the benefits of the Noncomplying Plan are identical to its own, and shall pay its benefits accordingly. However, the Complying Plan must adjust any payments it makes based on such assumption whenever information becomes available as to the actual benefits of the Noncomplying Plan.

### **365:40-5-53. Right to receive and release necessary information**

For the purpose of determining the applicability of and implementing the terms of this section of this Plan or any provision of similar purpose of any other Plan, the insurer or service plan may, without the consent of or notice to any person, release to or obtain from any other insurance company or other organization or person any information, with respect to any person, which the insurer or service plan deems to be necessary for such purposes. Any person claiming benefits under this plan shall furnish to the insurer or service plan such information as may be necessary to implement this section. Occasionally this will necessitate a carrier making payment as the primary carrier with a right of recovery in the event that subsequent investigation proves that payment as a secondary carrier should have been made.

### **365:40-5-54. Benefit payments**

Carriers shall use the following claims administration procedures to expedite claim payments where COB is involved:

#### **(1) Improving exchange of benefit information.**

(A) There should be continued and improved education of claim personnel stressing accurate and prompt completion of the HIC Duplicate Coverage Inquiry (DUP-1) Form by the inquiring carrier and the responding carrier. This education effort should also be encouraged through local claim associations. An HMO may use a form substantially similar to the HIC Duplicate Coverage Inquiry (DUP-1) Form if approved by the Insurance Commissioner prior to its use.

(B) Claim personnel should be encouraged to make every effort, including use of the telephone, to speed up exchange of COB information. All carriers shall respond to inquiries at least thirty (30) days from receipt of such inquiries.

(C) Carriers should encourage building a local data file of other group plans in the area, with at least basic information on group health plans for major employers.

**(2) Time limits for payment.** Each carrier shall establish a time limit after which full or partial payment should be made. When payment of a claim is necessarily delayed for reasons other than the application of a COB provision, investigation of other valid coverage should be conducted

concurrently so as to create no further delay in the ultimate payment on benefits.

### **365:40-5-55. Subrogation**

The concept of coordination of benefits is clearly distinguishable from that of subrogation. Provisions for either may be included in a group health insurance policy without compelling the inclusion or exclusion of the other.

### **365:40-5-56. Small claim waivers**

Carriers shall waive the investigation of possible other coverage for COB purposes on claims less than fifty dollars (\$50), but if additional liability is incurred to raise the small claim above fifty dollars (\$50), the entire liability may be included in the COB computation.

### **365:40-5-57. Public education**

Each carrier has an affirmative obligation to urge its respective group policyholder-clients to take reasonable steps to assure that those insured by the group policy or subscriber contract have been exposed to reasonably concise explanations, with as little technical terminology as is commensurate with accuracy, as to the purpose and operation of COB. Such educational effort may take the form of articles in the company magazines or newspapers, speeches before the appropriate labor organization in the case of a unionized company, brochures added to pay envelopes, notices on the company bulletin board, material used by personnel department in counseling employees, and the like.

### **365:40-5-58. Retroactivity**

Group policies or contracts which are in force at the time of promulgation of this subchapter which contain an "excess" clause, "anti-duplication" provision, or any other provision by whatever name designated under which benefits would be reduced because of other existing coverages, other than the COB provisions established in this subchapter, shall be brought into compliance by the later of the next anniversary or renewal date of the group policy or contract or the expiration of the applicable collectively bargained contract, pursuant to which they are written, if any.

### **365:40-5-59. Facility of payment**

Whenever payments which should have been made under this Plan in accordance with this section have been made under any other Plans, the insurer or service plan shall have the right, exercisable alone and in its sole discretion, to pay over to any organizations making such other payments any amounts it shall determine to be warranted in order to satisfy the intent of this section, and amounts so paid shall be deemed to be benefits paid under this Plan and, to the extent of such payments, the insurer or service plan shall be fully discharged from liability under this Plan.

**365:40-5-60. Right of recovery**

Whenever payment has been made by the insurer with respect to allowable expenses in a total amount, at any time, in excess of the maximum amount of payment necessary at that time to satisfy the intent of this section, the insurer or service plan shall have the right to recover such payments, to the extent of such excess, from among one or more of the following, as the insurer or service plan shall determine:

- (1) any persons to or for or with respect to whom such payments were made;
- (2) any other insurers; or
- (3) service plans or any other organizations.

**PART 13. TERMINATION OF MEMBERS, PROVIDERS AND CONTINUATION OF BENEFITS**

**365:40-5-70. Termination of group or individual contracts**

(a) An HMO desiring to either terminate or not renew a group or individual contract shall provide at least sixty (60) days advance notice of termination. Except, an HMO may terminate or not renew a contract with less than sixty (60) days notice for cause such as failure to pay premiums or fraud.

(b) A group contract or individual contract shall not be terminated except as described in Part 15 of this Subchapter and O.A.C. 365:40-5-45.

**365:40-5-71. Termination of providers**

An HMO shall implement a policy governing termination of providers. The policy shall include at least:

- (1) Provisions for at least ninety (90) days advance notice of contract termination by either the HMO or the provider, with additional provisions for contract termination by the HMO with less than ninety (90) days notice for cause;
- (2) Methods by which the termination policy shall be made known to providers and members at the time of enrollment and on a periodic basis;
- (3) Written notification to each member at least thirty (30) days prior to the termination or withdrawal of a member's primary physician from the HMO's provider network and of any other physician or provider currently treating the member. The Department may waive the 30-day prior notice requirement if the HMO demonstrates that immediate termination is necessary for the protection of health, safety and welfare of members, or if the HMO demonstrates that the provider has not complied with the termination requirements under the contract; and
- (4) Assurance of continued coverage of services, under certain conditions, consistent with the following:

(A) Every plan shall establish procedures governing termination of a participating provider who is terminated for reasons other than cause. The procedures shall include assurance of continued coverage of services, at the contract terms and price by a terminated provider for up to ninety (90) calendar days from the

date of notice to the covered person for a covered person who:

- (i) Has a degenerative and disabling condition or disease;
- (ii) Has entered the third trimester of pregnancy. Additional coverage of services by the terminated provider shall continue through at least six (6) weeks of postpartum evaluation; or
- (iii) Is terminally ill.

(B) If a participating provider voluntarily chooses to discontinue participation as a network provider in a plan, the plan shall permit a covered person to continue an ongoing course of treatment with the disaffiliated provider during a transitional period:

- (i) of up to ninety (90) days from the date of notice to the plan of the provider's disaffiliation from the plan's network, or
- (ii) that includes delivery and postpartum care if the covered person has entered the third trimester of pregnancy at the time of the provider's disaffiliation.

(C) If a provider voluntarily chooses to discontinue participation as a network provider participating in a plan, such provider shall give at least a ninety-day notice of the disaffiliation to the plan. The plan shall immediately notify the disaffiliated provider's patients of that fact.

(D) Notwithstanding the provisions of paragraph 1 of this subsection, continuing care shall be authorized by the plan during the transitional period only if the disaffiliated provider agrees to:

- (i) continue to accept reimbursement from the plan at the rates applicable prior to the start of the transitional period's payment in full,
- (ii) adhere to the plan's quality assurance requirements and to provide to the plan necessary medical information related to such care, and
- (iii) otherwise adhere to the plan's policies and procedures, including, but not limited to, policies and procedures regarding references, and obtaining preauthorization and treatment plan approval from the plan.

**365:40-5-72. Continuation of benefits**

(a) If group or individual contracts are terminated by the HMO, provision shall be made for continuation of benefits to enrollees who, on the date of termination, are confined in an inpatient facility until their discharge or expiration of benefits according to the group or individual contract, and provision shall be made for pregnant enrollees through delivery and discharge. An HMO is not required to continue further benefits for an enrollee or group terminated for cause.

(b) Each HMO shall have a plan for handling insolvency that allows for continuation of benefits for the duration of the contract period for which premiums have been paid, continuation of benefits for enrollees who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits, and continuation of benefits for pregnant enrollees

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through delivery and discharge. The Department shall require the plan to include one or more of the following:

- (1) Insurance to cover the expenses to be paid for continued benefits after the HMO's insolvency;
- (2) Provisions in provider contracts that obligate the provider to provide services for the duration of the period after the HMO's insolvency for which premium payment has been made and until the enrollees' discharge from in-patient facilities;
- (3) Insolvency reserves;
- (4) Acceptable letters of credit; and
- (5) Any other arrangements to assure that benefits are continued as specified above.

### **365:40-5-73. Disenrollment for cause**

An HMO may disenroll an individual member of a group for cause such as failure to pay premiums or copayments, fraud, or misuse of identification card or if the enrollee's behavior is abusive, disruptive, threatening, or uncooperative to the extent that continued membership in the HMO seriously impairs the HMO's ability to furnish services to either the enrollee or other enrollees. Before disenrolling the enrollee, the HMO shall:

- (1) Make a serious effort to resolve the problem presented by the enrollee, including the use or attempted use of the HMO's grievance procedures;
- (2) Ascertain that the enrollee's behavior does not directly result from an existing medical condition; and
- (3) Document the problems, efforts, and medical conditions that demonstrate the HMO's conformity to this section.

### **365:40-5-74. Certification of creditable coverage**

(a) For the purpose of this Section, "creditable coverage" shall have the same meaning as described in Section 2701(c) of the Federal Public Health Service Act.

(b) An HMO shall issue to individuals and members of a group a certificate of creditable coverage when individual or group coverage terminates. Said certificates shall be issued in accordance with the requirements and specifications of sections 2701(c), (d), and (e) of the Federal Public Health Service Act.

## **PART 15. DISCONTINUATION OF HMO**

### **365:40-5-80. Notice**

An HMO shall give the Department at least one hundred eighty (180) days written notice of any decision to cease doing business. The HMO must submit for the Department's approval all notices, press releases, conversion agreements, memorandums of understanding, or other marketing or informational materials prior to their release and effective dates.

### **365:40-5-81. Individual market**

(a) If an HMO elects to discontinue offering a particular contract form for health coverage offered in the individual market, coverage under such form shall be discontinued only if:

- (1) The HMO provides notice to the Department and to each covered individual provided coverage under this contract form of such discontinuation at least ninety (90) days prior to the date of the discontinuation of such coverage;
- (2) The HMO offers to each individual provided coverage under this contract form the option to purchase any other individual health coverage currently being offered by the HMO for individuals in such market in the state; and
- (3) In exercising the option to discontinue coverage of this contract form and in offering the option of coverage under subparagraph (b)(2),1 the HMO acts uniformly without regard to any health-status-related factor of enrolled individuals or individuals who may become eligible for such coverage.

(b) If an HMO elects to discontinue offering all health coverage in the individual market in this state, health coverage shall be discontinued only if:

- (1) The HMO provides notice to the Department and to each individual of such discontinuation at least one hundred eighty (180) days prior to the date of the expiration of such coverage; and
- (2) All health coverage issued or delivered for issuance in the state in the individual market is discontinued and coverage under such health coverage in such market is not renewed.

(1) The HMO provides notice to the Department and to each individual of such discontinuation at least one hundred eighty (180) days prior to the date of the expiration of such coverage; and

(2) All health coverage issued or delivered for issuance in the state in the individual market is discontinued and coverage under such health coverage in such market is not renewed.

### **365:40-5-82. Group market**

(a) An HMO may discontinue offering a particular contract form of group health coverage offered in the small-group market or large-group market only if:

- (1) The HMO provides notice to the Department and to each contractholder provided coverage under this form in such market, and to participants and beneficiaries covered under such coverage, of such discontinuation at least ninety (90) days prior to the date of the discontinuation of such coverage;
- (2) The HMO offers to each contractholder provided coverage under this form in such market the option to purchase any other health coverage currently being offered by the HMO in such market; and
- (3) In exercising the option to discontinue coverage of this form and in offering the option of coverage under subparagraph (a)(2) above, the HMO acts uniformly without regard to the claims experience of those contractholders or any health-status-related factor that relates to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

(b) In any case in which an HMO elects to discontinue offering all health coverage in the small-group market or the large-group market, or both, in this state, health coverage shall be discontinued only if:

- (1) The HMO provides notice to the Department and to each contractholder provided coverage under this form in such market, and to participants and beneficiaries covered under such coverage, of such discontinuation at least ninety (90) days prior to the date of the discontinuation of such coverage;
- (2) The HMO offers to each contractholder provided coverage under this form in such market the option to purchase any other health coverage currently being offered by the HMO in such market; and
- (3) In exercising the option to discontinue coverage of this form and in offering the option of coverage under subparagraph (a)(2) above, the HMO acts uniformly without regard to the claims experience of those contractholders or any health-status-related factor that relates to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

(b) In any case in which an HMO elects to discontinue offering all health coverage in the small-group market or the large-group market, or both, in this state, health coverage shall be discontinued only if:

(1) The HMO provides notice to the Department and to each contractholder, and participants and beneficiaries covered

under such coverage, of such discontinuation at least one hundred eighty (180) days prior to the date of the discontinuation of such coverage; and

(2) All health coverage issued or delivered for issuance in this state in such markets is discontinued and coverage under such health coverage in such market is not renewed.

**365:40-5-83. Market reentry**

In the case of a discontinuation in the group or individual markets, the HMO may not provide for the issuance of any group or individual health coverage in this state during the 5-year period beginning on the date of the discontinuation of the last health coverage not renewed.

**PART 17. CONFIDENTIALITY OF MEDICAL INFORMATION AND LIABILITY**

**365:40-5-90. Responsibility of HMO**

(a) The HMO shall protect the confidentiality of its enrollees from public disclosure of confidential and medical information, however, this shall not be construed to prevent the Department or other legally constituted agencies of the State or Federal Government or peer review organizations from completing medical record reviews or obtaining information as required under applicable laws or rules.

(b) The HMO shall have access to treatment records and other information pertaining to the diagnosis, treatment or health status of any enrollee.

**PART 19. REQUEST FOR ASSISTANCE AND PROMPT PAY FORM**

**365:40-5-100. Request for assistance**

(a) The Department shall expeditiously advise an HMO of each inquiry the Department receives regarding that HMO. Such inquiries need not be handled through the HMO's written grievance system.

(b) The Department shall provide a form that an enrollee may use to request assistance of the Department. The Department shall review such requests and consider whether or not the request for assistance raises issues of compliance with the HMO Act or the rules. If the Department has reason to believe that a violation exists, then the matter shall be considered by the Department and a determination shall be made by the Department as to the appropriate action to be taken.

(c) The Department shall not refer an inquiry or complaint to an HMO prior to investigating the matter if the Department has reason to believe that referring the inquiry or complaint may compromise the Department's ability to enforce the HMO Act or this Chapter.

**365:40-5-101. Prompt Pay Form and Requirements**

The Prompt Pay Form as set forth in Appendix G of this Chapter shall be used in reporting violations of the prompt pay requirements. The person filing the form shall submit the original form to the Claims and Consumer Assistance Division of the Department and a copy to the entity accused of the prompt pay violation named in the form.

**PART 21. GEOGRAPHIC SERVICE AREA VARIATIONS**

**365:40-5-110. Accessibility of providers**

(a) The Department shall presume a proposed service area to be reasonable if the mean travel time is thirty (30) minutes or less from six equidistant points on the area boundary to the nearest primary and emergency care delivery sites within that area.

(b) The Department shall consider approving service areas with distances of greater than 30 minutes to primary and emergency care providers, based on the following.

(1) Primary or emergency care providers are not available in the area;

(2) Primary or emergency care providers are available but do not meet the HMO's reasonable credentialing requirements;

(3) Primary or emergency care providers are unwilling or unable to enter a reasonable health services contract with the HMO; or

(4) Residents of the area customarily travel longer than 30 minutes to reach primary or emergency care providers.

**365:40-5-111. Marketing and enrolling**

(a) All marketing, enrollment, or informational materials produced by the HMO shall specify the approved geographic service area within which contracting providers are reasonably available and accessible.

(b) The Department recognizes that under some circumstances, persons who neither live nor work in the service area desire to enroll in an HMO. Those may include, but are not limited to the following persons.

(1) Retirees;

(2) Persons living or working at or near the service area boundary, and whose neighbors are eligible for enrollment;

(3) Employees who have been relocated;

(4) Persons whose best or only health coverage option is an HMO, despite the additional travel time required;

(5) Persons who customarily choose to travel to the service area for their health services; or

(6) Family members living apart from one another, as a result of circumstances such as legal separation or divorce.

(c) The HMO must ensure that each subscriber living and working outside the service area, upon enrolling, signs a form showing understanding that his or her residence falls outside the service area and agreeing to seek all services, except emergency services as defined in the HMO contract, within the approved service area.

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(d) Nothing in this section, or in the Department's approval of an HMO, shall be construed as authorization for the plan to enroll, solicit, or market to, any person who resides outside this state.

### **365:40-5-112. Geographic area filings**

(a) Each HMO shall describe its proposed service area in terms of political boundaries, zip codes, or geographic boundaries.

(b) Each HMO shall provide to the Department a map of the complete service area clearly showing the service area boundaries, main traffic arteries, and any physical barriers such as mountains and rivers. The HMO shall show on the map the location of ambulatory and hospital providers. The HMO must mark six equidistant points along the boundary, and calculate mean travel time from those six points to the nearest primary and emergency services sites.

(c) The HMO shall provide the information required in this Section in its license application filed pursuant to 36 O.S. § 6903.

## **PART 23. REIMBURSEMENT OF CLAIMS**

### **365:40-5-120. Purpose**

The purpose of this Part is to ensure that claims for payment or reimbursement shall be processed timely and that settlements shall be paid in full and that prompt pay is received.

### **365:40-5-121. Requirement to reimburse claims for point of service**

No HMO shall be required to reimburse claims for non-authorized out-of-network services other than emergency services unless the HMO offers a point of service option pursuant to Part 7 of this Subchapter.

### **365:40-5-122. Responsibilities**

An HMO or its employees and agents shall not:

(1) Pay claims reviewers based on reductions, unless the reductions are based on uniformly applied protocols designed to detect billing errors and duplicate charges;

(2) Compel a subscriber or provider to:

(A) Accept less than the full settlement of a claim;  
or

(B) File suit to obtain full settlement; or

(3) Knowingly misrepresent reimbursement criteria or time limits to a subscriber, provider, or their representatives.

### **365:40-5-123. Reimbursement criteria**

(a) An HMO that pays or reimburses claims shall disclose the criteria that establish how and whether a claim for services delivered by a participating or non-participating provider shall be paid. The disclosed criteria shall specify any documents required to be filed with a claim.

(b) If an HMO requires providers to use a uniform claim or billing form, the forms shall be either:

(1) The HCFA-1500, or its successor, for outpatient billing and claim submission; or

(2) The UB-92, or its successor, for hospital billing and claim submission.

(c) An HMO shall furnish to providers the following information with the uniform claim or billing form:

(1) The amount the HMO shall pay the provider for the services rendered; and

(2) Notice that the provider shall bill the HMO directly for its portion of the charges if the subscriber has paid the applicable copayment or deductible.

(d) If an HMO requires the use of a claim transmittal form, the evidence of coverage shall include a convenient method for the subscriber to request the form. The form shall be sent to the subscriber within five (5) days after request.

(e) If an HMO uses reasonable and customary charge determinations to authorize settlements, it shall:

(1) Base such determinations on prevailing charges for health services and supplies common to a geographic area; and

(2) Furnish or arrange to furnish the rationale and data sources for a determination, within ten (10) days after receipt of a provider's request for this information and for no more than a nominal copying fee.

(f) A claim shall be reimbursed identically in amount whether a subscriber or provider submits the claim.

### **310:40-5-124. Claims payment report**

(a) Upon the request of the Insurance Commissioner and in a time frame as specified by the Insurance Commissioner, HMOs shall file with the Department a periodic report on compliance with provisions in Titles 36 of the Oklahoma Statutes and this Part regarding reimbursement of claims within certain time periods.

(b) Each report shall be accompanied by a statement signed by a member of the Board of Directors or executive management attesting to the accuracy of the report.

(c) Any HMO that delegates any claim payment functions shall require the delegated entity or entities to prepare the required report for claims the entity processes including the required attestation.

(d) Each HMO shall collect and submit all required report(s) as a complete package.

(e) These reports shall be in such form and context as directed by the Department.

### **365:40-5-125. Elements of a clean claim**

(a) Required clean claim elements. A provider submits a clean claim by providing the required data elements specified in O.A.C. 365:40-5-123 to an HMO along with any attachments and additional elements information of which the provider has been properly notified pursuant to O.A.C. 365:40-5-126.

(b) **Attachments.** The Center for Medicare and Medicaid Services has developed a variety of manuals that identify various attachments required of different providers for specific services. An HMO may use the appropriate Medicare standards for attachments in order to properly process claims for certain types of services. An HMO shall only require as attachments information that is either contained in or in the process of being incorporated into a patient's medical or billing record maintained by the provider. Before any attachments may be required, the HMO shall satisfy the notification procedures set forth in O.A.C. 365:40-5-126.

(c) **Additional clean claim elements.** Before any additional clean claim elements may be required, the HMO shall satisfy the notification procedures set forth in O.A.C. 365:40-5-126. An HMO shall only require as additional clean claim elements information that is either contained in or in the process of being incorporated into a patient's medical or billing record maintained by the provider.

**365:40-5-126. Disclosure requirements**

(a) An HMO shall not require an attachment or an additional element unless it has given the provider the disclosure mandated by this Section at least sixty (60) calendar days before requiring the attachment or additional element as an element of the clean claim.

(b) An HMO shall not revise its requirements for data elements, attachments or additional elements unless it has given the provider the disclosure mandated by this Section at least sixty (60) calendar days before requiring the data element, attachment or additional element.

(c) The HMO shall not require claims filed during the sixty (60) day period after receipt of the disclosure to include the required attachment or additional element identified in the disclosure.

(d) Methods of disclosure may include one or more of the following:

- (1) A written notice to all affected providers.
- (2) Updated revisions to the provider manual or other document that sets forth the claims filing procedures; or
- (3) Amendments to provider contracts that specify clean claim elements.

(e) If the provider contract requires mutual agreement of the parties as the sole mechanism for requiring attachments or additional elements, then the written notice specified in this Section shall not supersede the requirement for mutual agreement.

(f) All notices shall identify with specificity the attachment(s) or additional element(s) required for a clean claim.

(g) The disclosure required by this Section shall be presumed received by the provider in the manner provided in O.A.C. 365:40-5-129.

**365:40-5-127. Disclosure of processing procedures**

(a) In contracts with providers, or in the provider manual or other document that sets forth the procedure for filing claims as required by O.A.C. 365:40-5-122, or by any other method mutually agreed upon by the contracting parties, an HMO shall disclose to its providers:

(1) The mailing address, including a physical address, where claims are to be sent for processing whether it be the address of the HMO, a delegated claims processor, or any other entity, including a clearing house or a repricing company designated by the HMO to receive claims;

(2) The telephone number to which providers' questions and concerns regarding claims may be directed; and

(3) The mailing address, including physical address, of any separate claims processing centers for specific types of services, if applicable.

(b) An HMO shall provide no less than sixty (60) calendar days prior written notice of any changes of address for submission of claims, and of any changes of delegation of claims payment functions, to all affected providers with whom the HMO has contracts. Except an HMO may provide less than sixty (60) days notice in situations beyond the control of the HMO.

(c) After a change of claims payment address or a change in delegation of claims payment functions, an HMO shall not premise the denial of a clean claim upon a provider's failure to file a clean claim within any contracted time period for claim filing, unless timely written notice has been given to the provider.

(d) If an HMO has delegated its claims processing functions to a third party, the delegation agreement must provide that the claims processing entity shall comply with the requirements of this Part and applicable law. Any delegation agreement or provision may not be construed to limit the HMO's authority or responsibility to comply with all applicable statutory and regulatory requirements.

**365:40-5-128. Failure to promptly pay**

(a) An HMO that fails to comply with the requirements in Titles 36 of the Oklahoma Statutes regarding reimbursement of claims and with this Part shall pay the greater of:

(1) The penalty amount for late payment referred to in applicable provisions in Titles 36 of the Oklahoma Statutes; or

(2) The contracted penalty rate for late payment set forth in the contract between the provider and the HMO.

(b) Failure to pay the correct amount on a clean claim in accordance with the contract or denial of a clean claim for which payment should have been made that results in a failure to comply with the requirements of applicable provisions in Titles 36 of the Oklahoma Statutes and this Part is considered a violation and may be subject to administrative penalties as set forth in HMO Act.

(c) Any amount previously paid or any charge for a non-covered service shall be deducted from the payment.

**365:40-5-129. Date of claim receipt**

(a) A provider and an HMO may agree by contract to establish a procedure to create a rebuttable presumption regarding the date of claim receipt.

(b) If a provider and HMO do not by contract agree to a method for the establishment of a rebuttable presumption, then the procedures set forth in subsections (c) through (e) of this

## **Emergency Adoptions**

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Section shall be used to establish a rebuttable presumption to demonstrate the date of claim receipt.

(c) The provider shall maintain a claims summary report to identify each claim and identify the batch to which multiple claims were a part. The claims summary report shall be used as a means of confirming the number of claims submitted.

(d) The summary report shall accompany each batched filing, except for electronic submissions.

(e) The provider shall submit a claim or a multiple claim batch by one of the following methods, as appropriate:

(1) United States mail first class. Claim(s) submitted by United States mail first class will be considered received on the seventh business day after the date the claim(s) was placed in the mail;

(2) Certified mail. Claim(s) submitted by certified mail will be considered received on the date the delivery receipt is signed;

(3) Overnight delivery. Claim(s) submitted by overnight delivery will be considered received on the date the delivery receipt is signed;

(4) Electronically. Claim(s) submitted electronically will be considered received on the date of verification of receipt by the HMO or the HMO's clearinghouse. Claims are to be accompanied by any system-generated proof of transmission. If the HMO or its clearinghouse do not confirm receipt or reject the transmission within 24 hours of

submission, the provider or the provider's clearinghouse shall provide the confirmation date conditional upon the provider or the provider's clearinghouse verifying the claim(s) contained the correct payor identification;

(5) Facsimile. Claim(s) submitted by facsimile will be considered received on the date of the facsimile confirmation, or if the transmission occurs after the HMO's working hours, on the HMO's next working day; or

(6) Hand delivery. Claim(s) submitted by hand delivery will be considered received on the date the delivery receipt is signed.

### **365:40-5-130. Terms of contracts**

Contracts between HMOs and providers shall not include terms that:

(1) Exceed the maximum number of days established for reimbursement of claims pursuant to applicable provisions in Titles 36 of the Oklahoma Statutes;

(2) Requires the provider to contact the HMO to inquire about the status of a claim; or

(3) Waive the provider's right to recover reasonable attorney fees, if such provider is the prevailing party in litigation, pursuant to applicable provisions in Titles 36 of the Oklahoma Statutes.

APPENDIX A. HMO FORM A [NEW]

OKLAHOMA INSURANCE DEPARTMENT  
HOLDING COMPANY SYSTEM ACQUISITION STATEMENT

HMO FORM A

STATEMENT REGARDING THE  
ACQUISITION OF CONTROL OF OR MERGER WITH A  
HEALTH MAINTENANCE ORGANIZATION (HMO)

\_\_\_\_\_  
Name of HMO  
by  
\_\_\_\_\_  
Name of Acquiring Person (Applicant)

FILED WITH

THE INSURANCE COMMISSIONER  
FOR THE STATE OF OKLAHOMA

Dated: \_\_\_\_\_, 20\_\_\_\_

Name, Title, Address and Telephone Number of Individual to Whom Notices and  
correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. HMO and Method of Acquisition**

State the name and address of the HMO to which this application relates and a brief  
description of how control is to be acquired.

**ITEM 2. Identity and Background of the Applicant**

- (a) State the name and address of the applicant seeking to acquire control over the HMO.
- (b) If the applicant is not an individual, state the nature of its business operation for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. State whether or not the applicant has ever been convicted of any felony or of a misdemeanor involving moral turpitude, dishonesty, or breach of trust, during its existence, and any administrative discipline imposed on the applicant during the past ten (10) years and, if so, give the date, nature of conviction or administrative

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order, name and location of court or administrative agency or board, and penalty imposed or other disposition of the case. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than 1/2 of 1% of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained, other than by the ownership or control of voting securities, indicate the basis for such control. As to each person specified in such chart or listing, indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings looking toward a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

### **ITEM 3. Identity and Background of Individuals Associated with the Applicant**

State the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual:

(a) Name and business address;

(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices or employments during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;

(d) Whether or not such person has ever been convicted of any felony or of a misdemeanor involving moral turpitude, dishonesty, or breach of trust, during his or her lifetime, and if so, the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

(e) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) or any administrative discipline during the last ten years and, if so, give the date, nature of conviction or administrative order, name and location of court or administrative agency or board, and penalty imposed or other disposition of the case.

### **ITEM 4. Nature, source and amount of consideration**

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise

obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity to remain confidential, he must specifically request that the identity be kept confidential.

### **ITEM 5. Future plans for HMO**

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such HMO, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

### **ITEM 6. Voting securities to be acquired**

State the number of shares of the HMO's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

### **ITEM 7. Ownership of voting securities**

State the amount of each class of any voting security of the HMO which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

### **ITEM 8. Contracts, arrangements or understandings with respect to voting securities of the HMO**

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the HMO in which the applicant, its affiliates or any person listed in Item 3 is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

### **ITEM 9. Recent purchases of voting securities**

Describe any purchases of any voting securities of the HMO by the applicant, its affiliates or any person listed in Item 3 in the 12 calendar months preceding the filing of this Statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefore. State whether any such shares so purchased are hypothecated.

### **ITEM 10. Recent recommendations to purchase**

Describe any recommendations to purchase any voting security of the HMO made by the

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applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this Statement.

### ITEM 11. Agreements with broker-dealers

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the HMO for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

### ITEM 12. Financial statements and exhibits

(a) Financial statements and exhibits shall be attached to this Statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2 for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the Commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business. The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an HMO which is actively engaged in the business, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the regulatory department of the person's domiciliary State and are in accordance with the requirements of the NAIC Accounting Practices and Procedures Manual or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the HMO and (if distributed) of additional soliciting material relating thereto; any proposed employment, consultation, advisory or management contracts concerning the HMO; annual reports to the stockholders of the HMO and the applicant for the last two fiscal years; and any additional documents or papers required by HMO Form A or regulation Section 365:25-7-6.

### ITEM 13. Signature and certification

Signature and certification required as follows:

#### SIGNATURE

Pursuant to the requirements of Section 1653 of the Holding Company Act and Section 6930 of the HMO Act, \_\_\_\_\_ has caused this application to be duly signed on its behalf, in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Name of Applicant

BY: \_\_\_\_\_

(Name)

\_\_\_\_\_  
(Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached application dated \_\_\_\_\_, 20\_\_\_\_, for and on behalf of \_\_\_\_\_; and that (s)he is the

(Name of Applicant)

\_\_\_\_\_ of such company and that (s)he is authorized

(Title of Officer)

to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

\_\_\_\_\_  
(Type or print name beneath)

Sworn to and subscribed before me this \_\_\_ day of \_\_\_\_, 20\_\_ by

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
(SEAL)

**APPENDIX B. HMO FORM B [NEW]**

**OKLAHOMA INSURANCE DEPARTMENT  
HOLDING COMPANY SYSTEM REGISTRATION STATEMENT**

**HMO FORM B**

**OKLAHOMA HOLDING COMPANY SYSTEM  
ANNUAL REGISTRATION STATEMENT**

Filed with the Insurance Commissioner for  
the State of Oklahoma.

BY

\_\_\_\_\_  
Name of Registrant

On Behalf of the Following Health Maintenance Organizations (HMO)

Name(s)	Address(es)
_____	_____
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_, 20\_\_\_\_

Name, Title, Address and Telephone Number of Individual to Whom Notices and  
Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. Identity and control of registrant**

Furnish the exact name of each HMO registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each Registrant became part of the holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

**ITEM 2. Organizational chart**

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the holding company system. No affiliate need be shown if its total assets are equal to less than 1/2 of 1% of the total assets of the ultimate controlling person within the holding company system unless it has assets valued at or exceeding \$250,000. The chart or listing should show the percentage of each class of voting securities of each affiliate, which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

### **ITEM 3. The ultimate controlling person**

As to the ultimate controlling person in the holding company system furnish the following information:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.
- (e) The principal business of the person.
- (f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.
- (g) If court proceedings looking toward a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

### **ITEM 4. Biographical information.**

Furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

### **ITEM 5. Transactions, relationships and agreements**

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

- (a) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (b) purchases, sales or exchanges of assets;
- (c) transactions not in the ordinary course of business;
- (d) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than contracts entered into in the ordinary course of the Registrant's business;

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- (e) all management agreements, service contracts and all cost-sharing arrangements;
- (f) reinsurance agreements;
- (g) dividends and other distributions to shareholders;
- (h) consolidated tax allocation agreements; and
- (i) any pledge of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the holding company system.

No information need be disclosed if such information is not material for purposes of O.A.C. 365:40-3-12. Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of 1% or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material. The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include at least the following: the nature and purpose of the transaction; the nature and amount of any payments or transfers of assets between the parties; the identity of all parties to such transaction; and the relationship of the affiliated parties to the Registrant.

### **ITEM 6. Litigation or administrative proceedings**

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
- (b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

### **ITEM 7. Statement regarding plan or series of transactions**

The HMO shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

### **ITEM 8. Financial statements and exhibits**

- (a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.
- (b) The financial statements shall include the annual financial statements of the ultimate controlling person in the holding company system as of the end of the person's latest fiscal year. If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the

extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the Commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business. Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of the NAIC Accounting Practices and Procedures Manual or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an HMO which is actively engaged in the business, the annual financial statements need not be certified, provided they are based on the Annual Statement of such HMO filed with the regulatory department of the HMO's domiciliary State and are in accordance with requirements of the NAIC Accounting Practices and Procedures Manual or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by HMO Form B or O.A.C. 365:40-3-15.

**ITEM 9. Information in the Application for Certificate of Authority**

Amendments or modifications to the items required by O.A.C. 365:40-3-14 must be filed with HMO Form B.

**ITEM 10. Form C required**

An HMO Form C, Summary of Registration Statement, must be prepared and filed with this HMO Form B.

**ITEM 11. Signature and certification**

Signature and certification required as follows:

**SIGNATURE**

Pursuant to the requirements of O.A.C. 365:40-3-12, the Registrant has caused this annual registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Name of Registrant

BY \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

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Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

### CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated \_\_\_\_\_, 20\_\_\_\_, for and on behalf of \_\_\_\_\_; that (s)he is the \_\_\_\_\_

(Name of Company) (Title of Officer)  
of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or print name beneath)

APPENDIX C. HMO FORM C [NEW]

SUMMARY OF REGISTRATION STATEMENT

HMO FORM C

OKLAHOMA HOLDING COMPANY  
SUMMARY OF REGISTRATION STATEMENT

Filed with the Insurance Commissioner for  
the State of Oklahoma.

BY \_\_\_\_\_

Name of Registrant  
On Behalf of the Following Health Maintenance Organizations (HMO)

Name(s)	Address(es)
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_, 20\_\_

Name, Title, Address and Telephone Number of Individual to  
Whom Notices and Correspondence Concerning This Statement  
Should Be Addressed:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Furnish a brief description of all items in the current annual registration statement, which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of HMO Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10 percent of more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

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Changes occurring under Item 4 of HMO Form B need only be included where: an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The HMO shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

## SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

### SIGNATURE

Pursuant to the requirements of O.A.C. 365:40-3-12, the Registrant has caused this summary of registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Name of Registrant

BY \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

### CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached summary of registration statement dated \_\_\_\_\_, 20\_\_\_\_, for and on behalf of

\_\_\_\_\_; that (s)he is the \_\_\_\_\_ of such  
(Name of Company) (Title of Officer)

company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

\_\_\_\_\_  
(Type or print name beneath)

**APPENDIX D. HMO FORM D [NEW]**

**PRIOR NOTICE OF A TRANSACTION**

**HMO FORM D**

**OKLAHOMA HOLDING COMPANY  
PRIOR NOTICE OF A TRANSACTION**

Filed with the Insurance Commissioner for  
the State of Oklahoma.

BY \_\_\_\_\_

Name of Registrant  
On Behalf of the Following Health Maintenance Organizations (HMO)  
Name(s) and Address(es)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Name, Title, Address and Telephone Number of Individual to  
Whom Notices and Correspondence Concerning This Statement  
Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. Identity of parties to transaction**

Furnish the following information for each of the parties to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.
- (e) A description of the nature of the parties' business operations.
- (f) Relationship, if any, of other parties to the transaction to the HMO filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the HMO seeking approval, or by the HMO filing the notice in the affiliated parties.
- (g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s), which will receive, in whole or in substantial part, the proceeds of the transaction.

**ITEM 2. Description of the transaction**

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under O.A.C. 365:40-3-14(b).
- (b) A statement of the nature of the transaction.
- (c) The proposed effective date of the transaction.

**ITEM 3. Sales, purchases, exchanges, loans, extensions of credit, guarantees or investments**

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the HMO filing notice, by any party to the transaction, or by any affiliate of the HMO filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount, which the HMO will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest. If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the HMO's surplus. No notice need be given if the maximum amount which can at any time be outstanding or for which the HMO can be legally obligated under the loan, extension of credit or guarantee is less than, as of the 31st day of December next preceding, the lesser of 3% of the HMO's admitted assets or 25% of surplus as regards policyholders.

**ITEM 4. Loans or extensions of credit to a non-affiliate**

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the HMO making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the HMO's surplus. No notice need be given if the loan or extension of credit is one which equals less than the lesser of 3% of the HMO's admitted assets or 25% of capital and surplus.

### **ITEM 5. Reinsurance**

If the transaction is a reinsurance agreement or modification thereto, as described by O.A.C. 365:40-3-13(b)(3)(B), furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the HMO and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the HMO's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the HMO's surplus. No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the HMO's liabilities in connection with the reinsurance agreement or modification thereto is less than 5% of the HMO's capital and surplus as of the 31st day of December next preceding.

### **ITEM 6. Management agreements, service agreements and cost-sharing arrangements**

For management and service agreements, furnish:

- (a) a brief description of the managerial responsibilities, or services to be performed.
- (b) a brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- (a) a brief description of the purpose of the agreement.
- (b) a description of the period of time during which the agreement is to be in effect.
- (c) a brief description of each party's expenses or costs covered by the agreement.
- (d) a brief description of the accounting basis to be used in calculating each party's costs under the agreement.

### **ITEM 7. Information in the Application for Certificate of Authority**

Subsequent to receiving its certificate of authority, the HMO must submit the information, modifications or amendments to the items 4-6 and 11 described in subsection C of Section 6903 of the Title 36 to the Insurance Commissioner for approval prior to the effectuation of the modification or amendment.

### **ITEM 8. Powers that may affect the financial soundness of an HMO**

An HMO shall file notice, with adequate supporting information with the Insurance Commissioner prior to the exercise of any power granted in paragraphs 1, 2 or 4 of subsection A of Section 6905 of Title 36 that may affect the financial soundness of the HMO. No information need to be disclosed on the registration statement filed, if such information is not material for the purposes of this section. Unless the Commissioner by rule, regulation or order provides otherwise, sales purchases, exchanges, loans or extensions of credit, or investments, involving one-half of one percent (1/2 of 1%) or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section.

**ITEM 9. Signature and certification**

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of O.A.C. 365:40-3-13,  
\_\_\_\_\_ has caused this notice to be duly signed on its behalf  
in the City of \_\_\_\_\_ and State of \_\_\_\_\_  
on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(SEAL) \_\_\_\_\_  
Name of Applicant  
BY \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)  
\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached notice dated  
\_\_\_\_\_, 20\_\_\_\_, for and on behalf of \_\_\_\_\_;  
(Name of Applicant)  
that (s)he is the \_\_\_\_\_ of such company and that (s)he is authorized to  
(Title of Officer)  
execute and file such instrument. Deponent further says that (s)he is familiar with such  
instrument and the contents thereof, and that the facts therein set forth are true to the best  
of his/her knowledge, information and belief.

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Type or print name beneath)

**APPENDIX E. HMO FORM E [NEW]**

**PRE-NOTIFICATION FORM  
REGARDING THE POTENTIAL COMPETITIVE IMPACT  
OF A PROPOSED MERGER OR ACQUISITION BY A  
NON-DOMICILIARY HMO DOING BUSINESS IN THIS  
STATE OR BY A DOMESTIC HMO**

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Name of Other Person  
Involved in Merger or  
Acquisition

Filed with the Insurance Department of  
\_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_.

Name, title, address and telephone number of person completing this statement:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. NAME AND ADDRESS**

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

**ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES**

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

**ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION**

State the nature and purpose of the proposed merger or acquisition.

**ITEM 4. NATURE OF BUSINESS**

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

**ITEM 5. MARKET AND MARKET SHARE**

State specifically what market and market share in each relevant HMO market and persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past

five years and identify the source of such data. For purposes of this question, market means direct written premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

**NOTE:** State Insurance Departments may additionally choose to make these calculations using their own data or data provided by the NAIC.

**APPENDIX F. HMO FORM R [NEW]**

**OKLAHOMA INSURANCE DEPARTMENT  
REDOMESTICATION APPLICATION**

**HMO FORM R**

Statement Regarding The Redomestication Of

\_\_\_\_\_  
Name of HMO

FILED WITH

THE INSURANCE COMMISSIONER  
FOR THE STATE OF OKLAHOMA

Dated: \_\_\_\_\_, 20\_\_\_\_

Name, Title Address and Telephone Number of  
Individual to Whom Notices and Correspondence  
Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. Identity and background of the applicant.**

(A) State the name and address of the applicant seeking to redomesticate.

(B) State the nature of applicant's business operations for the past five years or for such lesser period as such applicant and any predecessors thereof shall have been in existence.

(C) Furnish a chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than 1/2 of 1% of the total assets of the ultimate controlling person affiliated with the applicant. Also indicate in such chart or listing the following information:

(i) The percentage of ownership of each such person, which is owned or controlled by the applicant or by any other such person.

(ii) If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control.

(iii) As to each person specified in such chart or listing, indicate the type of organization (e.g. corporation, trust, partnership);

(I) Describe the business it transacts; and

(II) List the state or other jurisdiction of domicile.

(iv) If court proceedings looking toward a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

**ITEM 2. Identity and background of individuals associated with the applicant.**

Provide the following with respect to each director and officer of the applicant; each director and officer of applicant's control person or persons; and each owner of 10% or more of the voting securities of the applicant and applicant's control person or persons:

- (A) Name and business address;
- (B) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;
- (C) Material occupations, positions, offices or employments during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal government agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;
- (D) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.
- (E) Any other information as the Commissioner may deem necessary.

**ITEM 3. Future plans of HMO.**

(A) Describe any plans or proposals, which the applicant may have, to declare an extraordinary dividend, to liquidate such HMO, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

(B) Provide a three year plan of operation which shall include but not be limited to marketing strategies by state, premium projections by state, information concerning proposed home or regional office locations and employment impact in Oklahoma.

**ITEM 4. Regulatory history.**

(A) If any entities listed in Item 1(C) of this Form are required to be licensed by or registered with any federal, state or municipal governmental agency indicate such fact, and indicate the current status of such licensure or registration, and provide an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith having occurred during the preceding 5 years or which is currently pending.

(B) If the applicant is required to be licensed by or registered with any federal, state or municipal governmental agency indicate such fact, and indicate the current status of such licensure or registration, and provide an explanation of any surrender, revocation,

## Emergency Adoptions

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suspension or disciplinary proceedings in connection therewith having occurred during the preceding 5 years or which is currently pending.

### ITEM 5. Examination status.

Indicate the following:

(A) Whether the applicant's domiciliary state, or any other state or jurisdiction in which the applicant is transacting the business of a health maintenance organization, is currently examining the applicant.

(B) Whether the applicant's domiciliary state, or any other state or jurisdiction in which the applicant is transacting the business of a health maintenance organization has provided notice of intent to examine and if so provide an explanation regarding such proposed examination.

(C) Provide detail as to the nature and type of examination listed in (A) and (B) of this paragraph.

### ITEM 6. Rates and reserves.

Indicate the methodologies utilized by the applicant in establishing its rates and reserves. Also, provide the names, addresses, and professional qualifications of the individuals responsible for these functions. Specify if the individuals are outside consultants or employees of the applicant.

### ITEM 7. Financial statements and other exhibits.

(A) Financial statements and exhibits shall be attached to this Statement as an appendix, but list under this item the financial statements and exhibits so attached.

(B) The financial statements shall include the following:

(1) Annual and quarterly financial statements of the applicant for the preceding five years.

(2) Annual financial statements of the person or persons who control the applicant pursuant to 36 O.S. § 1651(C) for the preceding three fiscal years (or for such lesser period as such person or persons and any predecessors thereof shall have been in existence), and similar information as of a date not earlier than ninety (90) days prior to the filing of the statement. Such financial statements need not be audited; except an audit may be required if the Commissioner determines an audit is necessary.

(C) File as exhibits copies of all proposed tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the HMO or of any ultimate controlling party or parties and (if distributed) of additional soliciting material relating thereto:

(i) any proposed employment consultation, advisory or management contracts concerning the HMO;

(ii) annual reports to the stockholders of the HMO and the ultimate controlling party or parties for the last two fiscal years; and

(iii) any additional documents requested by the Commissioner.

(D) File as exhibits all examination reports, whether financial, organizational, market conduct or otherwise, issued within the past five (5) years by the applicant's domiciliary

state, or any other state or jurisdiction in which the applicant transacts the business of a health maintenance organization.

(E) File as exhibits copies of any documents relating to any final orders or agreements entered into between the applicant or its affiliate and any regulatory body as disclosed in (4) of this section.

(F) And any other information as the Commissioner may deem necessary.

**ITEM 8. Signature and certification**

Signature and certification required as follows:

**SIGNATURE**

Pursuant to the requirements of O.A.C. 365:40-3-16, \_\_\_\_\_ has caused this application to be duly signed on its behalf, in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Name of Applicant  
BY: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)  
\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned deposes and says that (s)he has duly executed the attached application dated \_\_\_\_\_, 20\_\_\_\_, for and on behalf of

\_\_\_\_\_; and that (s)he is the  
(Name of Applicant)

\_\_\_\_\_ of such company and that (s)he is authorized  
(Title of Officer)

to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_  
(Type or print name beneath) \_\_\_\_\_

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Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by

\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

(SEAL)

APPENDIX G. PROMPT PAY FORM [NEW]

**PROMPT PAY FORM**

Oklahoma Insurance Department  
 P.O. Box 53408  
 2401 N.W. 23<sup>rd</sup> Suite 28 (73107)  
 Oklahoma City, OK 73152-3408  
 (405) 521-2991  
 (800) 522-0071 Toll Free (In State Only)  
 (405) 521-6652 Fax

**NOTE:**  
**ENTITIES ACCUSED OF PROMPT PAY VIOLATIONS ARE REQUIRED TO SUBMIT DOCUMENTATION SUPPORTING THE REASON FOR DELAY IN PAYMENT OR PROOF OF PAYMENT TO THE OKLAHOMA INSURANCE DEPARTMENT WITHIN TEN (10) DAYS.**

FROM: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_ City & State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of insured or member: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_ City & State: \_\_\_\_\_ Zip: \_\_\_\_\_

Full Name of Entity accused of prompt pay violations: \_\_\_\_\_

Address: \_\_\_\_\_ City & State: \_\_\_\_\_ Zip: \_\_\_\_\_

Policy/Contract/Group Number or Name: \_\_\_\_\_

Dates Claims Originally Submitted: \_\_\_\_\_

Please give as detailed information as possible including dates and explain what solution you feel is correct. Attach copies of all correspondence relating to the inquiry.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(Continue on the back)

**COMPLAINANT MUST PROVIDE A COPY OF THIS COMPLETED FORM TO THE ENTITY ACCUSED OF PROMPT PAY VIOLATIONS AND THE OKLAHOMA INSURANCE DEPARTMENT SIMULTANEOUSLY.**

Complaint Number _____	Claim Analyst _____	Date Entered _____
Complainant type _____	Complainant letter _____	Coverage 1. _____ 2. _____ 3. _____
Entity number 1. _____ 2. _____ 3. _____		Reason for complaint 1. _____ 2. _____ 3. _____
Entity type 1. _____ 2. _____ 3. _____		Dispositions 1. _____ 2. _____ 3. _____
Entity function 1. _____ 2. _____ 3. _____		Inquirer _____
(If not same as shown above)		

[OAR Docket #03-3160; filed 11-3-03]

# Emergency Adoptions

## TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #03-3177]

### RULEMAKING ACTION:

EMERGENCY adoption.

### RULES:

Subchapter 17. Medical Micropigmentation

435:10-17-1. Purpose [AMENDED]

435:10-17-2. Definitions [AMENDED]

435:10-17-3. Duties and responsibilities [AMENDED]

### AUTHORITY:

Title 59 O.S., Section 489, Board of Medical Licensure and Supervision

### DATES:

#### Adoption:

September 11, 2003

#### Approved by Governor:

October 29, 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 Board found that a compelling public interest requires an emergency rule amendment pursuant to SB340, effective 11-1-03, amending the law regarding the level of supervision for those practicing medical micropigmentation.

### ANALYSIS:

The rules are being amended to reflect the changes in law and allow the supervising physician to determine the level of supervision.

### 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 17. MEDICAL MICROPIGMENTATION

#### 435:10-17-1. Purpose

The purpose of this subchapter is to set forth the duties and responsibilities of an allopathic physician electing to employ and/or utilize a medical micropigmentationologist ~~according to the provisions of House Bill 1964.~~

#### 435:10-17-2. Definitions

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

**"Direct supervision"** means that the supervising physician is present in the office before, during and after the procedure and includes the authorization and evaluation of the procedure with the physician/patient relationship remaining intact.

**"Medical micropigmentationologist"** means a person credentialed according to the provisions of Title 63 O.S., Section 1-1450 et seq.

**"Patient"** means any person undergoing a micropigmentation procedure.

**"Physician"** means an allopathic physician licensed by the Oklahoma State Board of Medical Licensure and Supervision.

#### 435:10-17-3. Duties and responsibilities

(a) To be eligible to serve as a supervising physician for a medical micropigmentationologist a physician shall meet the following criteria:

(1) Have possession of a full and unrestricted license to practice allopathic medicine and surgery in the state of Oklahoma.

(2) The supervising physician shall be in full time practice with a minimum of twenty (20) hours per week of direct patient contact.

(b) Medical micropigmentation procedures may only be undertaken within the context of an appropriate doctor/patient relationship wherein a proper patient record is maintained.

(c) The supervising physician may employ and/or utilize no more than two (2) medical micropigmentationologists at any one time.

(d) ~~The employment and/or utilization of a medical micropigmentationologist requires direct supervision by the supervising physician.~~ The supervising physician shall determine the level of supervision.

[OAR Docket #03-3177; filed 11-4-03]

## TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #03-3178]

### RULEMAKING ACTION:

EMERGENCY adoption.

### RULES:

Subchapter 19. Special Volunteer Medical License [NEW]

435:10-19-1. Purpose [NEW]

435:10-19-2. Procedure for volunteer license [NEW]

435:10-19-3. Annual renewal [NEW]

### AUTHORITY:

Title 59 O.S., Section 489, Board of Medical Licensure and Supervision

### DATES:

#### Adoption:

September 11, 2003

#### Approved by Governor:

October 29, 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 Board found that a compelling public interest required an emergency rule amendment pursuant to HB1140 which creates the special volunteer medical license. This law goes into effect November 1, 2003 and rules are needed on an emergency basis for the implementation of this law.

**ANALYSIS:**

These rules establish the procedure for applying for, obtaining, and renewing the special volunteer medical license.

**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 19. SPECIAL VOLUNTEER MEDICAL LICENSE**

**435:10-19-1. Purpose**

The purpose of this Subchapter is to set forth the requirements for receiving and maintaining a special volunteer medical license. This volunteer medical license shall be issued as provided for in Title 59 O.S., §493.5 for the sole treatment of indigent and needy persons without expectation of receiving any payment or compensation.

**435:10-19-2. Procedure for volunteer license**

(a) Application for a volunteer medical license shall be submitted on forms provided by the Board and document all information as required in Title 59 O.S., §493.5.

(b) The volunteer medical license shall be issued without the payment of an application fee.

(c) No person granted a volunteer medical license shall practice outside the scope of the license. Any practice outside the scope of the volunteer medical license shall be deemed to be unprofessional conduct and may be grounds for disciplinary action by the Board.

(d) All other provisions of the act and rules shall apply to holders of a volunteer medical license.

**435:10-19-3. Annual renewal**

(a) Holders of a volunteer medical license must apply for renewal on an annual basis on forms provided by the Board.

(b) Renewals issued by the Board will be without any continuing education requirements or renewal fee.

[OAR Docket #03-3178; filed 11-4-03]

**TITLE 457. OKLAHOMA STRATEGIC MILITARY PLANNING COMMISSION  
CHAPTER 10. ADMINISTRATIVE OPERATIONS AND PROGRAM IMPLICATION**

[OAR Docket #03-3179]

**RULEMAKING ACTION:**

Emergency Adoption

**RULES:**

Subchapter 1. General Provisions [NEW]

457:10-1-1. through 457:10-1-4. [NEW]

Subchapter 3. Organization and Administration [NEW]

457:10-3-1. through 457:10-3-3. [NEW]

Subchapter 5. Cooperative Program with Local Governmental Entities [NEW]

457:10-5-1. [NEW]

**AUTHORITY:**

Oklahoma Strategic Military Planning Commission; Title 74, Section 5401, *et sequitur*, of the Oklahoma Statutes and Enrolled Senate Bill 138 of the First Session of the 47<sup>th</sup> Oklahoma Legislature.

**DATES:**

**Adoption:**

August 28, 2003

**Approved by Governor:**

October 8, 2003

**Effective:**

Immediately upon Governor's approval or August 29, 2003, whichever is later.

**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 U.S. Department of Defense has initiated another Base Realignment and Closure Commission (BRAC) round with the announced intention of closing or downsizing military installations around the country. Oklahoma's three Air Force bases and two Army posts are important to both state and local economies. In order to assist local communities with their efforts to avoid adverse BRAC consequences, the Oklahoma Legislature has appropriated money to be matched with local resources to fund various public projects which support BRAC preparation. The Commission finds that these circumstances constitute a compelling public interest requiring immediate attention and in response has promulgated rules for operation of the Commission and distribution of the funds. Local agencies need funds immediately to be of any value in assessment and planning efforts.

**ANALYSIS:**

The rules set internal operating procedures for the Commission, such as meeting dates, election of officers and quorum requirements, and establish a grant program for assisting local governmental units with BRAC preparations. Local governmental units need to have funds as quickly as possible to begin work on assessment and planning.

**CONTACT PERSON:**

Don Davis (405)523-4283

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 74 O.S., SECTION 5401:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

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## **457:10-1-1. Purpose**

(a) The rules in this Chapter are intended to establish policies and procedures to:

(1) aid in the orderly administration of the Oklahoma Strategic Military Planning Commission;

(2) ensure effective and coordinated efforts among officials and agencies of federal, state, county, municipal and local governments in support of Oklahoma's military installations, particularly in respect to BRAC matters.

(b) The authority for the rules in this Chapter is Title 74, Section 5401, et sequitur, of the Oklahoma Statutes, and Enrolled Senate Bill 138 of the First Session of the 47th Oklahoma Legislature.

## **457:10-1-2. Definitions**

The following words and terms, when used in this Chapter, shall have the meanings attributed to them in this section, unless the context clearly indicates otherwise.

"BRAC" means Base Realignment and Closure processes of the United States Government.

"Commission" means Oklahoma Strategic Military Planning Commission.

"Local Government", "Local Government Entity" and "Local Governmental Jurisdiction" means any political subdivision of this state; sub-state planning districts; any public trust whose beneficiary is a municipality, county or the State of Oklahoma; or any voluntary association of such entities

"Program" means Incentive Grant Program of the Oklahoma Strategic Military Planning Commission.

"Public Project" means any activity in furtherance of a valid public purpose related to the Base Realignment and Closure processes of the United States Government, funded in whole or in part by public funds, authorized by a governmental unit, and for which there are written plans and a definable work product. A "Public Project" shall be deemed to include, without limitation, research and the work product thereof, planning processes, and the analysis and evaluation of the status of all aspects of defense installations and their environs.

## **457:10-1-3. Legal References**

References to "Title" in this Chapter refer to Titles of the Oklahoma Statutes. References refer to the most recent version of the law unless another edition is specifically cited.

## **457:10-1-4. Severability.**

If any rule, or part of any rule, in this Chapter is found to be unenforceable by a court of competent jurisdiction, the remainder of the rules will not be impaired or invalidated. The remaining rules in this Chapter will be valid and enforceable to the fullest extent permitted by law.

## **SUBCHAPTER 3. ORGANIZATION AND ADMINISTRATION**

## **457:10-3-1. Oklahoma Strategic Military Planning Commission; Organization and Meetings**

(a) Membership of the Oklahoma Strategic Military Planning Commission consists of seven (7) members.

(b) Five (5) of these members shall be appointed by the Governor, and serve at the pleasure of the Governor, and respectively shall represent the interests of Altus Air Force Base, Fort Sill, McAlester Army Ammunition Depot, Tinker Air Force Base and Vance Air Force Base.

(c) Of the remaining two members, one (1) shall be appointed by the Speaker of the House of Representatives from the membership of the House and one (1) shall be appointed by the President Pro Tempore of the Senate from the membership of the Senate. Both legislative appointees shall be ex officio and nonvoting members of the Commission and shall serve at the pleasure of their appointing authority.

(d) At least annually, the Commission shall elect a Chair and a Vice-Chair from among its members. Officers may be elected for succeeding terms.

(e) The Chair shall call and preside at meetings and may represent the Commission in such other matters as it may authorize. In the absence of the Chair, the Vice-Chair shall assume the Chair's duties and have the Chair's authority. The Vice-Chair shall also perform such duties as may be assigned by the Chair.

(f) All meetings of the Commission shall be held and conducted in accordance with the Open Meeting Act, Title 25 Oklahoma Statutes, Sections 301 et sequitur.

(g) Regularly scheduled meetings shall be held quarterly on the fourth Thursday of the following months: January, April, July and October.

(h) The Chair may call special meetings or emergency meetings.

(i) Special or emergency Commission meetings shall also be called at the written request of a majority of the appointed members of the Commission.

(j) The Chair may cancel any regularly scheduled, special or emergency meeting upon a determination based on reliable information that a quorum will not be present. The Secretary of State and members of the Commission shall be notified of the cancellation at least twenty-four (24) hours prior to the time of the cancelled meeting.

(k) Items requested to be in the Agenda for a meeting should be submitted to the Office of the Governor to the attention of the Chair no later than ten (10) days prior to a regularly scheduled meeting, three (3) days prior to any special meeting, or twenty-four (24) hours prior to any emergency meeting of the Commission.

(l) A majority of the appointed members of the Commission shall constitute a quorum.

(m) A quorum of the members of the Commission shall be present to transact any business.

(n) An affirmative vote from a majority of a quorum shall be required for any action by the Commission.

(o) Meetings of the Commission shall be held at the Office of the Governor or at such other locations as the Commission may from time to time designate.

**457:10-3-2. Locations for information and filing**

Any person may obtain information from, make a submission to, or make a request of the Commission by submitting a written request. Documents may be mailed to the Commission, or they may be hand-delivered during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding state-designated holidays. The location and mailing address for the Commission is: Oklahoma Strategic Military Planning Commission, Office of the Governor, State Capitol Building, Oklahoma City, Oklahoma, 73105. Telephone number for the Commission is (405) 521-2342. The date on which any document is actually received at the Office of the Governor shall be recorded as the date of filing.

**457:10-3-3. Retention and public inspection of documents and release of records**

(a) Documents filed with or presented to the Commission will be retained in the files of the Commission located at the Office of the Governor for the length of time required by state and federal laws. Documents will be disposed of in a manner consistent with the Oklahoma Records Management Act, found at Title 67, Oklahoma Statutes, Section 201 et sequitur, and rules promulgated by the Archives and Records Commission pursuant to Title 74, Oklahoma Statutes, Sections 564 et sequitur.

(b) Records may be released during the normal business hours of the Office of the Governor.

(c) The following fees have been determined by the Commission to fund the recovery of reasonable, direct costs of document copying or mechanical reproduction:

(1) Charges for copies of letter or legal-size documents shall be Twenty-five Cents (\$0.25) each for one-sided copies and Forty Cents (\$0.40) each for two-sided copies.

(2) In the event a request is solely for commercial purposes or clearly would cause excessive disruption of the Office of the Governor's essential functions, the Commission may charge the hourly rate of the person doing the search multiplied by the time required for the search.

(3) When materials from meetings or hearings are transcribed from tapes or notes, the charge will be calculated at a rate charged by a court reporter, or if done by Office of the Governor staff, will be \$5.00 per page. Copies of transcripts will be billed at regular copy rates.

**SUBCHAPTER 5. COOPERATIVE PROGRAMS WITH LOCAL GOVERNMENTAL ENTITIES**

**457:10-5-1. Incentive Grant Program**

(a) Through Senate Bill 138 of the First Session of the 40th Oklahoma Legislature, funds have been appropriated to the Commission for distribution to impacted local governmental units through an Incentive Grant Program (Program) to further the purposes and mission of the Commission.

(b) The Program shall consist of a series of application periods, continuing so long as funds are available. Maximum

grants and applicable local/state support ratios may be established for each application period.

(c) Expenditures pursuant to this Program shall comply with applicable statutes and rules and shall be construed as an expenditure of public funds in furtherance of governmental functions and for the purpose of conferring general and uniform benefits resulting from the expenditures.

(d) Rules for the submission, award and administration of the incentive grants follow:

(1) Eligible applicants include local governmental entities as defined by this Chapter

(2) Any eligible entity, which desires to participate in the Program, shall file a written plan of action and application for funds in support thereof which:

(A) demonstrates that the closure or realignment of one of Oklahoma's military installations would adversely affect its community of interest;

(B) describes the public project or projects it proposes to protect the interests of the governmental entity and its constituents with respect to BRAC issues relevant to the affected military installation; and,

(C) sets forth in detail or describes specifically the funds or other resources from local sources to be expended in pursuit of the public project or projects, which expenditures are sought to be matched with funds from this Program.

(3) The plan and application so submitted must have received a two-thirds (2/3) affirmative vote of the governing board of the local governmental entity, which vote shall be memorialized in a document executed under oath which states that the record of the vote is a true and accurate account of the proceedings approving the plan.

(4) If a plan and application are submitted by a voluntary association, evidence of eligibility under Rule (1), above, shall be submitted in addition to the required approval by the governing board of the local governmental entity.

(5) To receive funding pursuant to this Program, each plan shall be required to provide matching local funds or other local resources in a ratio of ten percent (10%) local funds or resources to ninety percent (90%) state funds or resources.

(6) Maximum grant for the first application period of the Program shall be Forty Thousand Dollars (\$40,000.00).

(7) Expenditure of all funds from this Program shall comply with the terms of the plan submitted to and approved by the Commission.

(8) A summary of any analysis or recommendation resulting as a work product from any grant funded by this Program shall be filed with the Commission for the purpose of preparing the Commission's required annual report to the Governor and Legislature, formulating recommendations for state projects relating to BRAC matters, establishing joint use priorities among installations, and other Commission functions.

## **Emergency Adoptions**

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(9) No funds from this Program shall be used to pay any administrative expenses of the applicant, and the Commission shall cause expenditures of Program funds to be monitored and audited to assure compliance with this requirement.

(10) Any entity which expends Program funds for proscribed administrative expenses shall be liable to the State of Oklahoma for treble the amount of funds identified as misspent, together with costs associated with recovery of

the funds, including reasonable attorney's fees. Funds so recovered shall become available for distribution to other participants in this Program. Misuse of any funds awarded pursuant to this Program shall disqualify the miscreant for further funding for a period of one (1) year from the date of issuance of the violation report.

*[OAR Docket #03-3179; filed 11-6-03]*

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# Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

## TITLE 1. EXECUTIVE ORDERS

**1:2003-25.**

### EXECUTIVE ORDER 2003-25

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on University of Oklahoma property at half-staff on Saturday, November 8, 2003, from 8:00 a.m. until 5:00 p.m. These flags shall be lowered to honor the memory of twenty-three University of Oklahoma Naval Reserve Officers Training Corps (NROTC) Midshipmen who lost their lives in a tragic air accident on July 18, 1953.

The twenty-three Midshipmen who perished in this tragedy were Eldred D. Bates, Jr., Edmund E. Fahrenkamp II, Charles S. Heddleston, John P. Hughes, James J. Kingen, Roy V. Lulow, Jr., Billy E. Mills, James L. Munkre, Ted G. Phillips, George H. Prentiss, James P. Raibourn, Robert E. Rhyne, Robert E. Richardson, John B. Rushing, Richard W. Schleiff, Dale Scott, David R. Smith, Gordon H. Smith, Lee W. Smith, Lloyd M. Smith, James C. Stafford, Kenneth R. Starr, and Darrell E. Stricklin.

This executive order shall be forwarded to the University of Oklahoma who shall cause the provisions of this order to be implemented.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 6th day of November, 2003.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage  
Secretary of State

*[OAR Docket #03-3205; filed 11-6-03]*

**1:2003-26.**

### EXECUTIVE ORDER 2003-26

I, Brad Henry, Governor of the State of Oklahoma, in observation of Veterans' Day, hereby direct the appropriate steps be taken to fly all American and Oklahoma Flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday, November 11, 2003, in appreciation for the sacrifices that Oklahoma men and women have made in defense of this great nation in all wars from the First World War to the wars in Korea and Vietnam to those we fight today.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 6th day of November, 2003.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage  
Secretary of State

*[OAR Docket #03-3206; filed 11-10-03]*

**1:2003-27.**

### EXECUTIVE ORDER 2003-27

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by law, hereby revoke Executive Order 2002-17, and, so that the status quo shall be maintained and pursuant to the provisions of Subsection D of Section 840-2.14 of Title 74 of the Oklahoma Statutes, hereby order a state agency hiring freeze.

## Executive Orders

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For purposes of this hiring freeze, each statewide elected official shall perform the duties of a Cabinet Secretary in approving or disapproving exemptions to this hiring freeze. These duties shall be accomplished in the same manner as other official actions by the elected officials.

Subject to written approval by the Governor, the Secretary of Human Resources and Administration may delegate specific agencies to a Deputy Secretary for purposes of complying with this Order.

This hiring freeze shall be implemented by all agencies in accordance with the following guidelines:

1. It is my direction that no audits of classified positions or reallocation of unclassified positions shall be initiated or conducted at the request of any agency unless specifically approved by the appropriate Cabinet Secretary.

2. All audits resulting from a classification grievance shall be exempt from the provisions of this Executive Order.

3. Except as specifically provided and authorized by this order, all affected state agencies are prohibited from hiring, reinstating, or promoting employees and from accepting a transferred employee from another agency.

4. Exceptions to this hiring freeze may be granted pursuant to special conditions as declared by the Chief Administrative Officer of any agency and approved by the appropriate Cabinet Secretary for that agency.

a. A Chief Administrative Officer shall submit a written request to the appropriate Cabinet Secretary stating the special conditions requiring the submission of the request and describing the actions taken by the agency to combat the budget shortfall for 2003 and 2004.

b. Such requests may be on forms provided by the Office of Personnel Management. If an agency has an internal form regularly used by that agency which provides all the necessary information, that form may be used in lieu of the Office of Personnel Management forms if approved by the Administrator of the Office of Personnel Management.

c. The Cabinet Secretary shall indicate approval in writing of the submitted request for the granting of an exception to this hiring freeze.

d. All approved requests and approved Cabinet Secretary findings shall be maintained as an official record by the Office of Personnel Management in accordance with Records Management Act. Any agency which does not submit personnel action requests for approval to the Office of Personnel Management shall be responsible for maintaining this documentation.

e. In the event of a vacancy in a Cabinet Secretary position, the Secretary of State shall act as the approving authority for the hiring freeze exception requests.

5. The Administrator of the Office of Personnel Management and the Director of the Office of State Finance are hereby directed to develop and implement procedures necessary to carry out the provisions of this Executive Order.

6. The Director of the Office of State Finance is authorized to require Cabinet Secretaries to provide him with periodic accountings of their approvals and disapprovals of written requests for exemptions to this hiring freeze. These reports shall be provided to the Governor.

7. The Oklahoma Military Department shall not be required to comply with this order for hiring personnel and contracts for which the department receives total federal government reimbursement.

Copies of this Executive Order shall be distributed to the Secretary for Human Resources and Administration for immediate implementation.

The provisions of this Executive Order shall be effective immediately and shall terminate December 31, 2004.

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 10th day of November, 2003.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:  
M. Susan Savage  
Secretary of State

*[OAR Docket #03-3207; filed 11-10-03]*

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